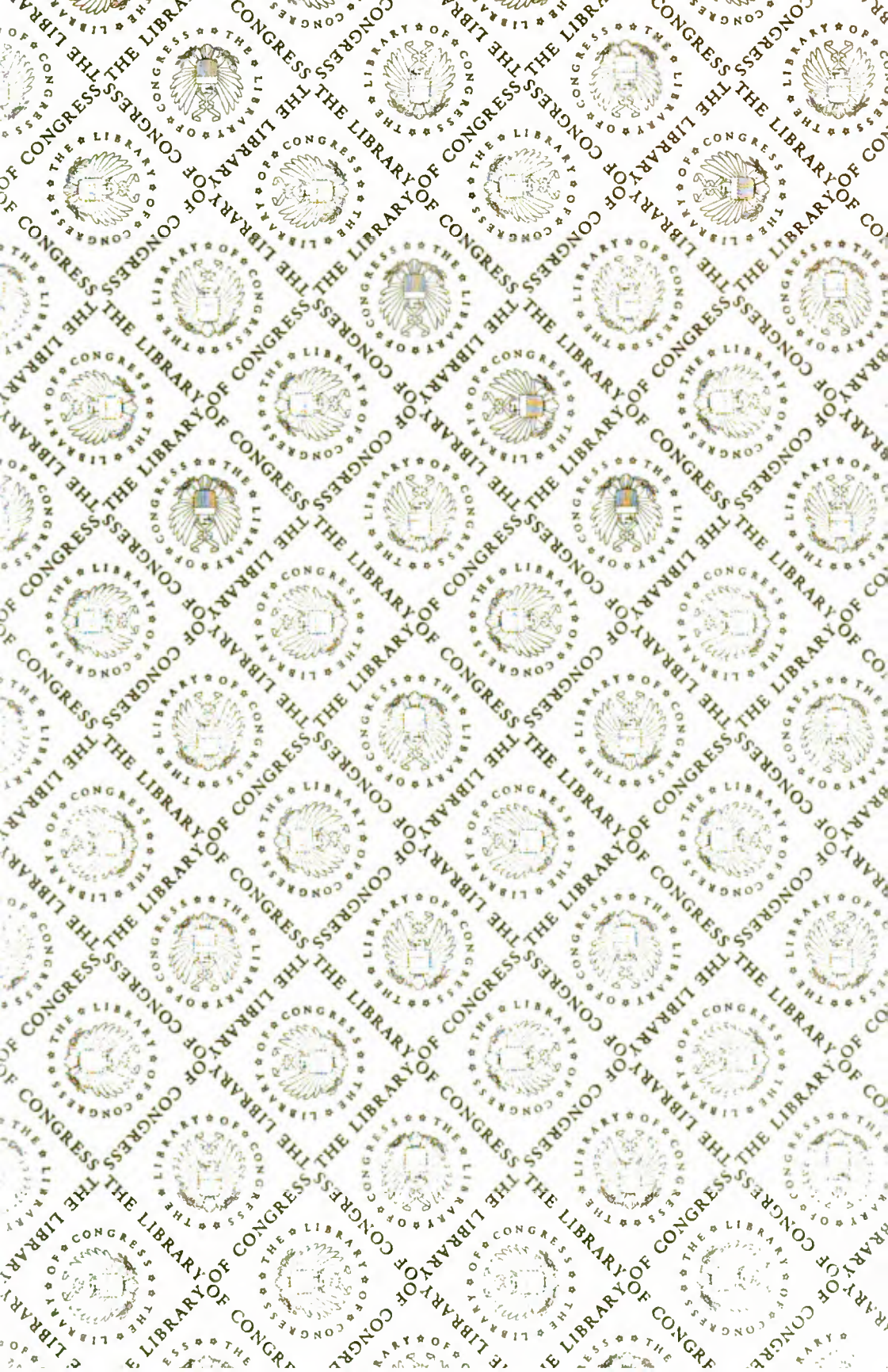
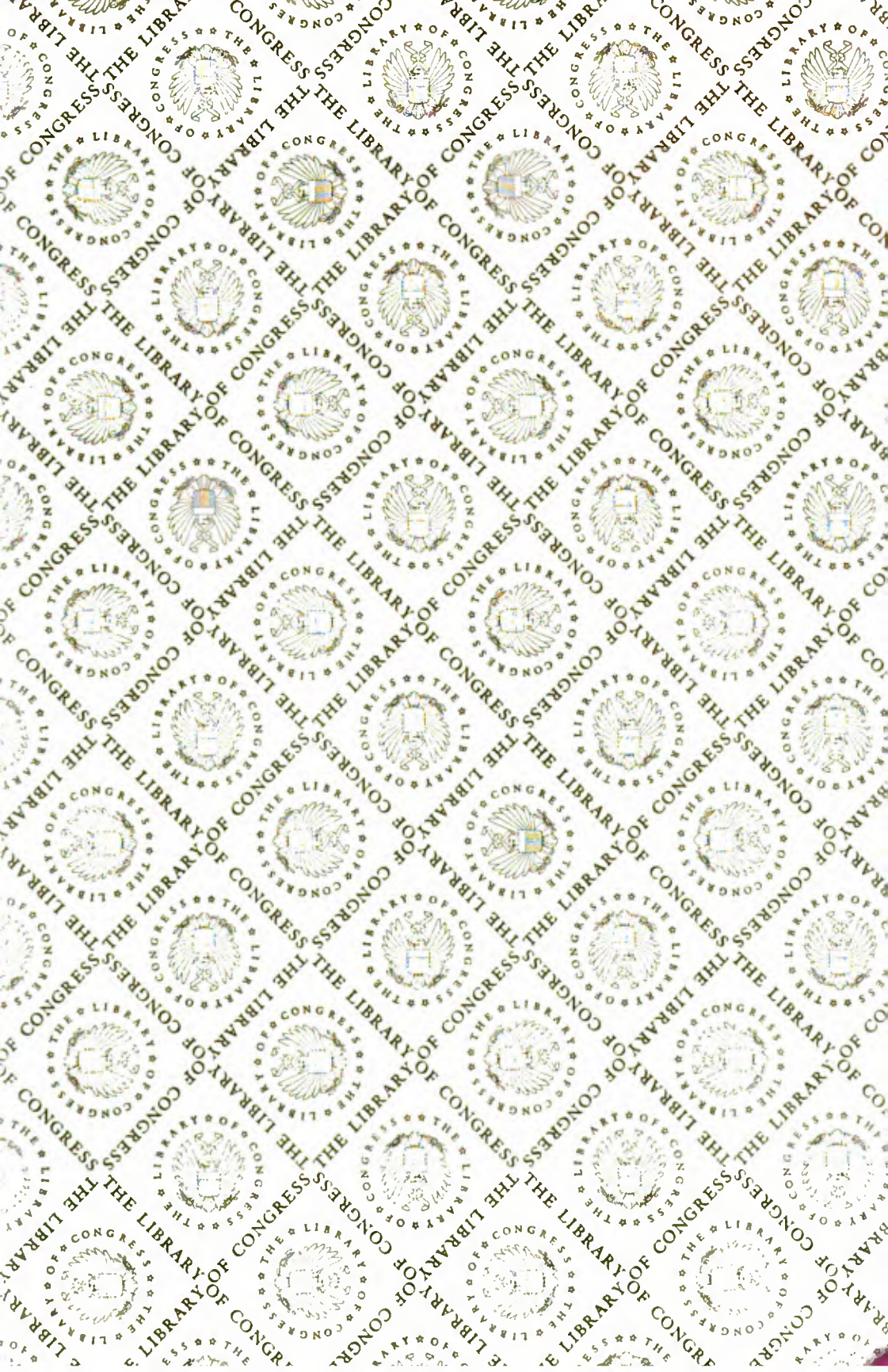


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United States

TERM LIMITS FOR MEMBERS OF THE U.S. HOUSE AND SENATE

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HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

FEBRUARY 3, 1995

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TERM LIMITS FOR MEMBERS OF THE U.S. HOUSE AND SENATE

FRIDAY, FEBRUARY 3, 1995

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Charles T. Canady (chairman of the subcommittee) presiding.

Present: Representatives Charles T. Canady, Henry J. Hyde, F. James Sensenbrenner, Jr., Lamar Smith, Bob Inglis, Bob Goodlatte, Martin R. Hoke, Michael Patrick Flanagan, John Conyers, Jr., Patricia Schroeder, Barney Frank, Melvin L. Watt, and José Serrano.

Also present: Representatives Fred Heineman and John Bryant of Texas.

Staff present: Kathryn A. Hazeem, chief counsel; Keri D. Harrison, assistant counsel; Kenny Prater, clerk; and Robert Raben, minority counsel.

OPENING STATEMENT OF CHAIRMAN CANADY

Mr. CANADY. The subcommittee will now come to order.

I am pleased to hold this hearing today on the issue of term limits for Members of the U.S. House and Senate. I look forward to our discussion today and to the vigorous debate that will follow this hearing and culminate on the House floor on what will be a historic day, the day of the first vote of the U.S. House of Representatives on the issue of congressional term limits.

The idea of limiting congressional terms is certainly not new. Term limits were among the resolutions considered during the Constitutional Convention in Philadelphia, and more than 180 term limit proposals have been introduced since the First Congress. But Congress has consistently avoided serious debate on the issue of term limits.

Fortunately, the American people will no longer allow Congress to avoid the issue. The public clearly supports and is calling for term limits for Members of Congress. Even after this last election, polls show that the public wants more than the party in power to change; the people want the power structure to change. And the people are convinced that limiting terms is the single measure which will affect the fundamental change in Washington that they desire.

I support term limits because I agree with the American people that we need to fundamentally change Congress. The public realizes that there is too much power here in Washington, intruding upon the powers of the States and the lives of the American people. The executive branch is huge and imposing, the judiciary is intrusive, and the Congress continues to create a larger body of law for the executive branch to enforce and the judiciary to interpret.

I believe that, as George Will has urged, term limits would restore a sense of proportion to politicians and therefore to government; at least some of our Founding Fathers agreed. When an amendment to force rotation in the Senate was considered during the debates on the adoption of the Federal Constitution, Mr. Melancton Smith of New York predicted the unhealthy growth of the Federal Government and stated that rotation would have a tendency to defeat any plots which may be formed against the liberty and authority of the State governments.

Today his prediction has come to fruition. Our State governments are fighting for their liberty. Truly Congress has become too much like a permanent class of professional legislators who can use the powers of the Federal Government to perpetuate their own careers. Term limits would reduce the power of the Federal Government by eliminating this permanent class of professional legislators, reducing the power of incumbency and seniority, and making legislators more responsive to the interests of the American people.

Now, it is true that many opponents of term limits contend that term limits will undermine effective and responsible government, that term limits will in effect turn Congress over to a gang of amateurs. I believe that these critics misunderstand the true meaning of representation in a democracy such as ours.

Their arguments are eloquently refuted by Daniel J. Boorstin, the historian and former Librarian of Congress, in an essay entitled "The Amateur Spirit and Its Enemies." Mr. Boorstin writes, "The true leader is an amateur in the proper original sense of the word. The amateur from the Latin word for love does something for the love of it, he pursues his enterprise not for money, not to please the crowd, not for professional prestige or for assured promotion and retirement at the end, but because he loves it. Aristocracies are governed by people born to govern, totalitarian societies by people who make ruling their profession, but our representative government must be led by people never born to govern, temporarily drawn from the community and sooner or later sent back home."

He goes on to say, "the more complex and gigantic our Government, the more essential that the layman's point of view have eloquent voices. The amateur spirit is a distinctive virtue of democracy. Every year, as professions and bureaucracies increase in power, it becomes more difficult yet more urgent to keep that spirit alive."

By enacting term limits, I believe that we in the Congress will be doing our part to keep alive this distinctive virtue of democracy. I look forward to hearing from our witnesses—we have several panels today—as well as from the distinguished chairman of the Judiciary Committee, who I am sure will add to a very lively debate as this subject moves forward, as well as to the gentleman from South Carolina, Mr. Inglis, a distinguished member of this sub-

committee who is the primary sponsor of a resolution to limit congressional terms.

Now I would like to recognize now Mr. Frank, who is here for the first time as the ranking minority member of the subcommittee.

Mr. FRANK. Thank you, Mr. Chairman.

I won't make a lengthy statement. I want to hear the witnesses. I come to all public issues with a very strong bias in favor of democracy, by which I mean allowing a majority of the people to do whatever they want whenever they want to do it with the exception of individual rights and no one has made the case to the contrary to me here. I had not heard the suggestion previously that this was about people who were born to rule.

I have had occasion to check with my mother on a couple of issues of late. I will ask her if in fact I was born to rule. I don't think there is anything in my family history that suggests that, but perhaps there is a hidden aspect of my ancestry and I will look into it.

I also believe that the will of the people should be taken into account, and I think elections are a marvelously effective way to do it, and while I am sometimes in disagreement with our friend, the very distinguished chairman of this panel, I do not think America is the worse for the fact that he has been here exceeding term limits. The last thing I would say is that I do look forward, though, to one of the most interesting philosophical debates that I have heard, which is the 6's versus the 8's versus the 12's.

There is a numerological aspect to this debate that fascinates me, and I will be very interested to hear the 6's denounce the 12's and show what a devious and terrible plot 12 is as compared to 6.

I look forward to being thus enlightened and I thank you, Mr. Chairman.

Mr. CANADY. Thank you, Mr. Frank.

Mr. Hyde.

Mr. HYDE. Well, much as I would like to, I will restrain the impulse to make a fulsome opening statement, but I will just say one thing, if somebody came up to me and said you have to vote for this person, I would be offended. I would say you don't understand democracy. Now, I fail to see the difference between someone coming up and saying you cannot vote for this person. I would say you don't understand democracy, either.

Thank you.

Mr. CANADY. Mr. Watt.

Mr. WATT. I am not sure I should try to add to the elegance and eloquence of our chairman, Mr. Hyde.

Mr. CANADY. Mr. Inglis.

Mr. INGLIS. Thank you, Mr. Chairman. Just briefly because I do want to hear the panel. I know we have several panels.

I mostly want to congratulate the chairman of this subcommittee and the chairman of the full committee for moving this bill. What a historic occasion it is here to be moving a bill through this committee, and for all the criticism of the Contract With America, what a wonderful accomplishment of the Contract, that we have now the opportunity to put a bill on the floor that 80 percent of the Amer-

ican people want, that want us to take action on, and we now have the opportunity.

I would like to recall that the gentleman from California, Mr. Edwards, last Congress was generous enough to hold two hearings on term limits, and I very much appreciate his willingness to do that, even though he, too, was adamantly opposed to term limits, but what a compliment to the chairman of the full committee here that he is willing to advance this bill to the floor to allow the debate, which has been frustrated now for decades in this Congress by a power structure that refused to even let the American people have their day on the floor of the House of Representatives. This is a people's House, and it is working as a people's House, it is evidenced right here, and I am very excited to be part of it, so thank you, Mr. Chairman.

Mr. CANADY. Mr. Conyers.

Mr. CONYERS. Thank you very much. I am here just to observe that the notion of a career Congress is largely mythical. Membership in the House and Senate is largely remade every decade. More than half the current Members of the House were first elected on or after 1990, and in the early 1980's three-quarters of the Senators and Representatives had served less than 12 years, so it may be that we are rushing to repair something that isn't broken. There is probably more turnover in the Congress recently than there has ever been, and so I am not quite sure what it is we are trying to fix that is so necessary of these hearings, although I support having the hearings completely.

Thank you very much.

Mr. CANADY. Thank you, Mr. Conyers. Mr. Flanagan.

Mr. FLANAGAN. Thank you, Mr. Chairman, and I do look forward to enjoying the debate with yourself, Henry Hyde and Mr. Frank. I will tell you that perhaps I can bring a perspective to the committee that it has not had, being that I am among the newest of the new replacing one of the oldest of the old. The strength and political realities of consolidating power and going on for a very long time, and the reality of bringing a new and fresh face and new ideas and new blood to the committee may also be a new perspective. I look forward to questioning the witnesses and to providing to the committee what I can.

Mr. CANADY. Mr. Sensenbrenner.

Mr. SENSENBRENNER. Mr. Chairman, I have no opening statement.

Mr. CANADY. Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

First of all, I would like to congratulate you on being the chairman of this particular subcommittee. I think your intelligence and your good judgment will serve you well in that position.

Second of all, it seems to me that we have a number of members who have taken very strong positions on the issue at hand, our chairman of the full committee, Mr. Hyde, Mr. Inglis, and a colleague of ours sitting in the front who will be testifying in a minute, Bill McCollum, whose bill calling for a 12-year limit I have cosponsored.

Let me say just broadly I see two general positions. One is that we don't need term limits and one is that we need some form of

term limits. I think the view that we don't need term limits is completely defensible in the sense that we have term limits, the possibility every 2 years when the voters go to the polls. As far as the different variations go, I hope today that we will explore further the impact of those variations. The question is do we ensure rotation in office, a principle that I support, and how, if so, do we do so.

In the case of the 6-year term limits, some of the questions that I hope we can resolve is, first of all, if you do impose those on Congress, you are talking about freshman Members being subcommittee chairs and facing complex issues, oftentimes for the first time in their lives. You also have a situation where you would have a Speaker of the House after 4 years, and you would be rotating Speakers every 2 years if you had that 6-year term limit. You don't face those difficulties in my judgment with the longer term limit of 12 years, but again I hope that those are questions that will be resolved, and I again thank you, Mr. Chairman.

Mr. CANADY. Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

I, too, thank you for holding these hearings, and I look forward to the markup of this legislation as well which I think will be quite historic, and the first time we will have addressed that in several decades. This is something that I think is vitally important.

I have cosponsored Mr. McCollum's legislation, and I think that we need to begin this year to build the kind of support we are going to be needing to pass it. The opponents of term limits have made mention of the fact that we don't need it, that many Members of Congress retire before they have served 12 or 14 years, but the fact of the matter is the nature of the Congress has changed rather dramatically with the evolution of time. In the 19th century, before 1895 there was never a Congress where there were more than 20 Members that had served more than 12 years.

In the Congress before the last one there were 198 Members that had served more than 12 years, and I think that when we have Members who are serving 30, 40, and we recently set the modern day record of 54 years of service in Congress, that those Members have become detached from their constituencies at the same time that they have accrued substantial power here in this Congress, and in recent Congresses I think that a very small handful of Members have held the lion's share of the power in the Congress, and term limits will help to break that up.

If Members can only serve for 12 years, Members are not likely to become a chairman of a committee until they have been here for 6 or 8 years at least, and therefore they are only going to be able to serve as chairman of a committee for 2 or 4 years, they are not going to be able to accrue the kind of power that some Members have accrued, and I think that that is a very positive development in terms of a representative democracy, dispersing power through the Congress into the hands of everybody who represents constituents here in the Congress.

The tendency of the seniority system is to reward those Members who are from the very safest districts, be they Republican or Democrat, who have a constituency that is not as representative of the broad cross-section of the country simply because it is not as com-

petitive. Therefore, they are able to remain in Congress for decades and build up the kind of seniority that is necessary to hold real power, and it restricts those who are from the most competitive districts that in some respects may be the most representative districts of the country as a whole, and as a result I think that term limits is most important from the standpoint of creating a situation where we have a change in the structure within the Congress.

The fact of the matter is you do need to be here for a certain amount of time to understand the process and to be most effective, so I think that shorter term limits are probably inappropriate, but that coupled with the fact that such an overwhelming percentage of incumbents are reelected because of the number of advantages that incumbents have, and this will help to level that playing field as well, I think term limits are important.

The fact of the matter is this year, the most revolutionary year in the Congress in decades in terms of change of power, 100 percent of the Republican incumbents running for reelection were reelected and 85 percent of the Democrats, who suffered a devastating defeat, nonetheless 85 percent of the incumbents running for reelection were reelected, so the powers of incumbency, the advantages of incumbency are substantial, and term limits will help to alter that.

Thank you, Mr. Chairman.

Mr. CANADY. Thank you. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman.

Mr. Chairman, I consider this hearing and the hearings that will follow on this issue one of great sad moments in our country's history, because I believe that this has to be one of the silliest issues to come before this country in a long, long time. I try to work myself up to face this in a very intellectual manner and try to figure out all the ins and outs of such a monumental decision.

I realized, first of all, that it was created a long time ago by a couple of people who ran for Congress and lost and who didn't know how to get the incumbent out, so they decided "we are going to create a movement to get the incumbent out by creating term limits."

Secondly, I think it is very dangerous because it speaks to the future of the country in a very simplistic and again silly way. I think sometimes that one of my advantages in life is a disadvantage at the same time, and that is the fact that I am bilingual in Spanish and English, at least I try to be. By speaking and reading Spanish I keep in touch with Latin American issues.

One of the things that I come across all the time from scholars and people in politics is "what is it about you Americans that you are constantly trashing your own Government, what is it about you Americans that you spend so much time worrying about how much your Members of Congress make as a salary, what they drive, where they park, whether or not they have a gym, and now you are going to kick them out after a certain amount of time regardless of how the people feel about them." This comes from a part of the world where people literally die to have our form of government, literally die for the opportunity to elect someone, not have them shot in the middle of a campaign by members of the Government, and then hope they can keep reelecting them for as long as

they want, and they look at us and they always say to me, Serrano, "what is it, que es lo que pasa?"

I will translate that. What is going on? And I say I don't know, I think we are cracking up. I think instead of dealing with poverty in America we are dealing with a parking spot, and instead of dealing with how children will be fed, we are dealing with the airport assigned parking, and instead of dealing with how we run elections and bring everybody into the system, we are dealing with how long are we going to keep them in power.

Well, I like being elected, and I think my community so far likes the fact that I get elected. I received the highest percentage in the Nation, 98 percent against a major party opponent. Now, I have got to be doing something right or everybody who voted for me are a bunch of idiots who don't know what they are doing.

I am not asking that as a question because somebody may decide that in the South Bronx everybody is a bunch of idiots.

Let me very briefly mention another point because I know there are so many things to say that you can't really put them forth full length.

I believe that term limits are unfair to ethnic minorities. I think if you throw out a bunch of people at the same time and bring in another bunch, you will have to elect the most good-hearted, progressive group every time, who would look around and say, you know, Mr. Conyers, Mr. Serrano, I think we want to share with you, Mr. Watt, some of the leadership in this place. The seniority system has protected some people.

If I was cynical, which I am not, I would wonder if just when certain people begin to gain some power in this body, some people decide it is time to curtail terms. Of course, I won't do that because that is too cynical. But we wonder what this is all about.

So we will limit terms, and then we will find that the staff will run the place, and 10 years from now we will be with a new movement of people who say "unlimited terms" and "let people run." It will be too late for me, I will be out, maybe playing a judge on another show somewhere, I don't know, but I wish we would get a hold of ourselves for a moment and say what is it that we are doing?

I will be through in a second, Mr. Chairman.

What are we really doing? Are we really dealing with poverty in America? Are we trying to stop the gap between the races? Are we trying to bring harmony? We are not. We have got the greatest democracy on earth, we have got a country that people would like to imitate, and we are constantly beating ourselves up, and this is the most incredible beating up of all the ones we will do. I hope we come to our senses and defeat this. I hope we come to our senses and listen to people on this committee who, while belonging to a party that proposes this, still think that it is a bad idea.

Thank you.

Mr. CANADY. Thank you, Mr. Serrano. I would like to ask that the members of the first panel please come forward and take their seats. Our first panel will consist of six distinguished Members of Congress, half of whom are from my own State of Florida. There must be something in Florida that has to do with term limits. I will introduce all of you, and then we will recognize you in turn.

We will first hear from the Honorable Bill McCollum, who is a distinguished member of the Judiciary Committee and has been a leading sponsor of term limits in the House for many years. He represents the 8th District of Florida; Representative Tillie Fowler is in her second term, representing the 4th District of Florida, and has been very active since she came to Congress on the term limits issue; the Honorable Donald Payne is in his fourth term representing the 10th District of New Jersey. This year Mr. Payne was elected chairman of the Congressional Black Caucus.

Representative Nathan Deal is in his second term, representing the Ninth District of Georgia; and the Honorable Pete Peterson is another Member from the great State of Florida. He is in his third term representing the Second District in north Florida.

Representative Ray Thornton is also with us. He is in his sixth nonconsecutive term from the State of Arkansas. He is President Clinton's Congressman and the lead defendant in the term limits case before the U.S. Supreme Court.

We are very pleased that all of you can be with us today.

I would like to first recognize Mr. McCollum.

STATEMENT OF HON. BILL MCCOLLUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MCCOLLUM. I thank you very much, Mr. Chairman.

I just want to say right off what a delight it is to be able to be here before this committee today realizing, as you said, Mr. Chairman, that we are about to embark on a very historic occasion of having the first vote on the floor of the House very shortly on the issue of term limits in the history of the U.S. Congress. I think that is long overdue and I think the public impression of this is that we have simply dillydallied because it is in our self-interest not to have this vote, but today we are going to have a full hearing, I am sure a full discussion about all the different possibilities and ramifications of it.

Let me start by laying some kind of a predicate to where we have come. I have introduced a term limits amendment, the 12-year version since I came to Congress in 1981. A lot of us at this table are deep believers in the term limits cause. That period of time, though, that intervened from 1981 until the last Congress had very few people willing to come forward and cosponsor an amendment to the Constitution that would limit Members' congressional terms.

There was somewhat of a stigma attached in the sense that if you were a supporter of it you might be frowned upon by some of the senior Members, particularly in the then-majority party, so we had difficulty getting cosponsors. The largest number until the last Congress was 33 to cosponsor any term limit constitutional amendment. In the last Congress we moved that up to around 106 who cosponsored some term limit amendment.

Then in this Congress we now have on several different proposals that are out there over 170 Members who are cosponsoring a term limit constitutional amendment of one length or one variety or another. I think that is great progress in light of what all has happened in the past. It also is a reflection of the mood of the country which says it is time for this body to recognize the fact that to be truly the people's body, the House of Representatives needs to

have a finite limit on how long we are here and to not have anybody in power for any particular period of time that is longer than whatever the term that we set may be, and have a chance for rotation to occur.

My judgment is the critics are completely right who say that this Congress and past Congresses have been too career oriented. It doesn't mean everybody is here seeking a career, but it means when you come to Congress today, because it is a full-time job, which it didn't used to be, and the Founding Fathers could never have envisioned it, when you come to Congress today and it is a full-time job, there is a tendency to put away whatever your profession or job was in the past, cut your ties because you don't have the time to do that, and then you become a little security conscious in my judgment and want to stay here for an increasing period of time.

It may be that you walk away after a certain time, but your ideas are shaped and your political actions are shaped largely by that thinking. My judgment again is that too many Members are more worried about getting reelected than they should be, and in some cases more worried about getting reelected than they are about making the tough decisions that would balance the budget and do the things the public wants.

And so for a whole host of reasons, some of which have been described in some of the opening statements I heard by your Members, the time in my judgment has come and I think certainly the overwhelming judgment of the American public, better than 75 percent, sometimes up to 80 percent, that we should limit our terms, just like Governors' terms are limited, just like most of the cabinet members of the States are limited, the President of the United States, and now many legislators and city and county commissioners.

Having said that, the question then is what term limit do we move to? Where do we go with respect to term limits? I have proposed a 12-year limit, six 2-year terms in the House and two 6-year terms in the Senate. There are those who would prefer there be 6 altogether, three 2-year terms in the House, others who say there ought to be an 8-year limit in the House, which would be four 2-year terms, and then there is the alternative that intrigues me a great deal that I personally favor but know that so far it has not achieved the kind of support it would take to get the 290 votes on the floor required, and that is three 4-year terms, to lengthen as well as to limit terms because the same principles in my judgment apply if we are going to be looking at the question of lengthening that applies to the limiting.

It would remove, by lengthening the terms, a great deal more of the pressure of constant reelection, so I would urge the committee to consider very seriously allowing the votes on the floor of the House on all of those options and then some.

I also would like to comment that the proposal I have, H.J. Res. 2, that is a lead proposal in the Contract With America for the 12-year variety is not in any way retroactive. It has been discussed, we have a statement I would like to submit for the record from the research team of the Library of Congress saying that it is not and why it is not. Some people have suggested that it is.

I would also like to suggest that while I personally would like to preempt State laws, I think we need to have uniformity throughout the country, that there is no way to write, nor have I in the 12-year, one, a constitutional amendment that would preempt the idea that is before the Supreme Court today in the Arkansas case that States, which I don't necessarily agree with, but that States have the right to use ballot access to limit us in the sense of having write-in candidates be the style at which you can appear rather than being on the automatic ballot, but nonetheless, I think we ought to have uniformity.

I think 12 years is the preferable length. I think lengthening the terms, as well as limiting, would be preferable, and I would encourage this committee to be as open as possible about allowing as many varieties and options as reasonably and responsibly can come to the floor for a vote when we have that vote.

Thank you, Mr. Chairman.

Mr. CANADY. Thank you, Mr. McCollum. As is our custom, we will ask you to summarize your testimony. I have not mentioned this earlier, and without objection the statement of each witness will be included in the record in its entirety.

Next I would like to recognize Mrs. Fowler from Florida.

STATEMENT OF HON. TILLIE K. FOWLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mrs. FOWLER. Thank you, Mr. Chairman. I want to thank you for having this hearing today and giving us the opportunity to testify.

As you know, when you and I, Mr. Chairman, first ran for Congress in 1992, our names appeared on the Florida ballot along with the term limits initiative, and that initiative, known as Eight is Enough in Florida, passed with 77 percent of the vote of the citizens of Florida. No State has ever passed a term limits initiative with a higher percentage.

So the people of our State of Florida have made it very clear that they support term limits, and we received a very clear mandate from them in 1992, so that is why the very first bill that I introduced in the 103d Congress was a term limits bill that tracked what Florida passed. That is, again, what I have introduced in this Congress, H.J. Res. 8, which limits House Members to 8 years and Senators to 12 years, and those are the numbers supported by the voters in the State of Florida.

I have got to tell you, we have nicknamed my bill the Goldilocks bill because if you think Mr. Inglis' 6 years is a little too short and you think 12 years is a little too long, you might decide that 8 years is just right, so you can take a look at that and see, and it is also different in that mine is not a lifetime ban on holding a particular office, so you could serve your 8 years in the House, go do something else, come back at a later date and serve again.

At the young age at which some of these Members are being elected to Congress today, and I think Mr. Thornton is a perfect example of this, I would hate to say that they could never again come back and serve in this body, so my bill does not have a lifetime ban on it. Now, I intend to offer my bill as an amendment when the Contract is considered on the floor of the House and try to convince

people that 8 is enough and try to get them to gain support for my amendment.

I want you to know that I have committed to support whichever one of our three bills makes it to final passage. I hate to disappoint Mr. Frank, and he is not going to hear a lot of debate and dissension among the three main sponsors of 6, 12, and 8 years because really the key to our success is that if those of us who support term limits fixate on a particular number of years rather than the number of votes we need to pass the bill, then we are going to fail.

Getting 290 votes for term limits in the House and 67 votes in the Senate is going to be a tall order, but one we can fill if we stick together. So as the sponsors of the three primary House bills, we have pledged to do just that, to stick together, and we are urging the supporters of all of our bills to do the same.

We have formed Team 290, asking people to sign on to that, to support whatever version of term limits ends up being the final one on the floor of the House because that is what is most important.

I would just like to make one other point. I am concerned, because I know some of my colleagues and good friends are going to offer an amendment on retroactivity or to count prior service against anything that we pass, and I want to state that I do not believe that the American people support retroactive term limits. Twenty-two States have enacted their own term limits, and not a one of them has made them retroactive.

The only time that a retroactive term limits was on the ballot in Washington State, it failed. When they came back with a term limits proposal that was not retroactive, then it did pass. So I do want to say that I think that is not going to work, and that it might be an effort, in other words it could end up killing what we are trying to do with term limits.

I want to thank you for giving us the opportunity today. I think there are very few issues where the American people have been more united and spoken more clearly than in their desire to see term limits enacted.

I look forward to working with you on this. Thank you.

Mr. CANADY. Thank you. Mr. Payne.

STATEMENT OF HON. DONALD M. PAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PAYNE. Thank you very much, Mr. Chairman, for this opportunity to testify before this subcommittee on this very, very important issue that is before us. I think we are all aware of the pros and cons, and you will hear that from members of the panel.

So I will just give some brief remarks regarding the Congressional Black Caucus' opposition to term limits. As we know, this measure would require a constitutional amendment to alter the qualifications clause of the U.S. Constitution. While I do not want to engage in a constitutional debate, a proposed constitutional amendment on this issue conflicts with the basic premise of our representative democracy that voters reserve the right to choose whomever they want to govern them.

Mr. Chairman, our forefathers in their wisdom established a system of government which has made the United States of America the strongest Nation in the world. Can you imagine if some of our

most passionate American orators like Henry Clay, Daniel Webster, or J.C. Calhoun had been silenced by term limits?

One of Daniel Webster's most widely acclaimed speeches in favor of excluding slavery from the territories was delivered in 1850. Under the term limit proposal we are debating today, Daniel Webster would have been forced out of the Senate long before he gave that speech because this great American spent 28 years in public service in the House and Senate, and we can go on to many of our early persons in the history of this country who contributed so much in the history.

The U.S. citizens already have the right to term limits through our democratic elective process on Federal, State and local levels. As a matter of fact as I sit here and look at to my right a picture of a great American who is a very good friend of mine, Peter Rodino, it was Congressman Rodino who so carefully and deliberately held the impeachment proceedings of the Watergate system, and it was his ability to bring out the best in our Constitution that we feel that the Constitution was preserved. Mr. Rodino served 40 years in this House.

As a matter of fact, I opposed Mr. Rodino in 1980 in his 32d term. The people of my district—as a matter of fact it was a minority, majority-minority at the time was 70 percent black—my district decided that Mr. Rodino should remain because they felt that Mr. Rodino was serving our district better, was more equipped and could do more for the 10th Congressional District of New Jersey. I then waited 6 years and opposed Mr. Rodino again in 1986. Once again, I was defeated. Much closer this time.

And in 1988, in his 40th year, after he had served 40 years he was deciding to run again, but as the campaign moved along Mr. Rodino decided to retire and not to seek election in 1988, and we are very honored to have had his service, and he served well and distinguished all that time. I am not saying that he is the typical person and, God bless him, he is still very active, goes to work every day, and I am not saying that is what everyone should do is to serve 40 years in the House, but that is an example of how our system works, and I think it is a good system.

Let me just say that we know there are 87 new Members in this Congress. Back in 1992 there were 124 newcomers. As we all know, 110 of those are here in the House and 14 in the Senate.

We have over half the House coming to this body since 1990, and so the bill is called the Citizens Legislative Act because it purports to make the Congress more representative of its citizens. I believe that the composition of the House already represents our Nation.

We have homemakers, real estate agents, small businessmen and women, law enforcement professionals, sports professionals, doctors, clergymen, another librarian to go with Major Owens, a florist, and they tell me we even have some lawyers, and so we do have a representative government here. One of our other concerns is that there has been a shameful history of disenfranchising of women, African-American, Latino voters over the years, and after years of these judicial and administrative wars which was highlighted by the passing of the Voting Rights Act of 1965, this country just recently is starting to get a representative government that represents all of America.

Another concern is that term limits would remove the critical leadership and institutional experience of Members. Important substantive areas of legislation relies on experience, as I mentioned, about the Honorable Peter Rodino in communications and natural resource and criminal law, and it has been positively influenced by Members with experience.

I will conclude, Mr. Chairman. I am representing the caucus, and I have one other point that if term limits of 6 years ago were in place 207 current Members would be unable to serve, including your leader, Speaker Gingrich, and all of your leadership. I don't know if that is what your mandate would have wanted to happen in this country.

Another fact to consider in term limits is that it would increase the power of the executive, make it easier for a centralized executive to dominate an often fragmented Congress. Term limits for the President presents a distinct difference because the incumbency, the one person presiding rather than 535 people in this body makes a total difference, even for Governors, and so in conclusion, term limits could make Members more susceptible to improper influence, creating an incentive to cater to special interest groups in order to further post-congressional opportunities.

Further, term limits will discourage people who want to make a career of public service. Term limits could establish a Congress of lame ducks, attracting mainly rich people who could go in and out of careers and businesses and therefore eliminate many other people, and so I would just urge that we defeat this and I will have the rest of my remarks—as you see I was ready to take the whole time, but I will yield back the balance of my time.

Mr. CANADY. OK. Thank you, Mr. Payne.

I would now like to recognize Mr. Deal.

STATEMENT OF HON. NATHAN DEAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. DEAL. Thank you, Mr. Chairman.

I appreciate the opportunity to be here and for the excellent attendance that the members of your committee have displayed by their presence today.

I think that you can take many views on the issue of term limits. I think the most difficult one and the one that has certainly been expressed from time to time is that those who support the concept are in some way attempting to denigrate the service of those who have served for long terms previously and presently serve for long terms, and that is certainly not the purpose.

I do believe in term limits. I have also been a cosponsor in the previous Congress with the 12-year term limits and the acceleration to the 4 years with 3-year limits on those terms, as you have heard described, but I would like to speak to you briefly about another constitutional amendment that I have proposed which I think addresses some of the issues that perhaps divide the panel here and perhaps divide the public.

As you know, there are 22 States that have enacted term limits or attempted to enact term limits which are being challenged now in our courts for Members of Congress. When you have 22 States expressing a desire to do something on this issue, I don't think we

can simply discount it as something that is silly or something that is not significant. It is. But 19 of those 22 have enacted or attempted to enact limitations of less than the 12 years.

I have a proposal that would hopefully accommodate both and all of those various combinations. My proposal would be that we would establish a 12-year limit at the Federal level, but that we would acknowledge that we would not preempt States from enacting shorter terms if they chose to do so. I believe this would bring those States that have that desire to allow them to do that without the constitutional challenge that is presently facing them in the court system. I would propose that and have introduced that as H.J. Res. 66, and I present it to this panel for your consideration.

Thank you.

[The prepared statement of Mr. Deal follows:]

PREPARED STATEMENT OF HON. NATHAN DEAL, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF GEORGIA

I want to thank you, Mr. Chairman and members of the Committee for scheduling this hearing on term limits and for providing me with this opportunity to testify regarding my proposal on this issue.

Some within Congress consider this discussion to be a personal attack upon them and their long years of dedicated service. Term limits as a concept is not an attack on individual legislators of long tenure, either past or present. Nor is it a seditious conspiracy to shift the balance of power within our branches of government. It is only those things if your view of history and your understanding of representative democracy is static. That is not my view. I believe government is strengthened by being renewed.

In the House, there is a disagreement between those who support a twelve year limit and those who prefer a limit of six or eight years. Although there is stronger support for a twelve year limit, several members and organizations have threatened to oppose legislation establishing term limits of more than six years. The headline entitled "A Civil War Over Term Limits" in the Thursday, February 2, 1995 edition of *Roll Call* makes this point painfully obvious. I believe it would be truly unfortunate if a difference over the ideal term limit proposal prevents us from enacting any term limits. The various groups should work together to ensure that some type of term limits is enacted into law.

As is the case on many issues, the states are moving ahead of the federal government on political reform. Twenty-two states have approved limits on the number of terms to which members of Congress can be elected. Just as in the House, the states disagree among themselves as to the number of years a person should serve in Congress. Nineteen states have enacted limits of less than twelve years for members of the House. Several other states are considering enacting term limits proposals on their own.

The proposal I am offering seeks to strike a balance between those who support a twelve year limit and those who want a shorter limit. The legislation I have introduced would establish a federal limit of twelve years in the House, twelve years in the Senate and would explicitly give the states the authority to set lower limits if they choose to do so. The alternative I propose seeks to capitalize on the support in Congress for a twelve year limit, while empowering states to enact shorter limits if they desire to do so. I believe this compromise will permit passage of the legislation and allow the issue to go to the states for ratification while, at the same time, accommodating the varied opinions on the exact length of limited terms.

As you know Mr. Chairman, there is considerable doubt about whether the states have authority under the Constitution to enact term limits. Article I of the Constitution establishes three qualifications for members of Congress: age, citizenship and residency. In *Powell v. McCormack*, the Supreme Court held that the House's power was limited to judging a Member's compliance with the qualifications in Article I of the Constitution. The Court's holding in *Powell* was grounded upon its conclusion that the qualifications established in the Constitution are exclusive. Based on this precedent, it is doubtful at best that the Court will uphold the limits on terms established by the individual states.

My proposal would lay to rest these Constitutional questions by explicitly stating that the states have the authority to enact more limited terms. Allowing the states to set limits on terms of members of Congress would be a step toward restoring the

federalism envisioned by the framers of the Constitution. As a strong supporter of states rights, I believe that the efforts in the states to enact term limits is healthy for our democracy. We should foster this development by explicitly granting the states authority to limit terms of federal legislators.

Beyond the Constitutional issues, the principal criticism of allowing individual states to set limits on terms for members of Congress is that it could result in a disparity in power in Congress among states. For example, voters in Washington state rejected term limits in 1991 largely in response to concerns that limiting the terms of legislators from Washington would give California greater power in relation to Washington state.

My proposal would address this concern by establishing a uniform federal limit of no more than twelve years in Congress, while allowing states to set lower limits within this overall limit. By providing that no member of Congress may serve more than twelve years, this proposal would prevent legislators in any state from amassing disproportionate power. Secure in the knowledge that no state would be able to send legislators to Congress for more than twelve years, any state would be able to decide whether its interests would be better served by more rapid turnover in its state delegation to Congress or by allowing its members of Congress to build experience and effectiveness by serving for up to twelve years.

I am submitting for the record a copy of the legislation I have introduced and a chart prepared by the Congressional Research Service regarding actions in the states limiting the terms of members of Congress. I welcome any questions you may have.

(Original signature of Member)

104th Congress
1ST SESSION

H.J.Res. 66

IN THE HOUSE OF REPRESENTATIVES

Mr. DEAL (for himself, Mr. MINGE, Mr. MEEHAN, and Mr. KINGSTON) submitted the following Joint Resolution; which was referred to the Committee on Judiciary.

Joint Resolution

Proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and House of Representatives.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each house concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress

ARTICLE ____

No person who has been elected to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times shall be eligible for election to the House of Representatives. A State may establish limitations on the length of service for Members of Congress from that State provided said limitations do not exceed the limits set forth in this Article.

CRS-3

Congressional Term-Limit Ballot Initiatives Which Have Been Passed by Voters*

State	Identifying no./date passed	Yes/No vote percent	Proposal type	Federal legislator's limits	Dates limits apply	Ballot success
Alaska ¹	Measure No. 4 (11/8/94)	63% 37%	Statute	H: 6 or more of previous 12 yrs. S: 12 or more of previous 18 yrs.	Terms beginning on or after 1/1/96 *	Yes
Arizona	Proposition 107 (11/3/92)	74% 26%	Constitutional Amendment	H: 3 consec. terms (6 yrs.) S: 2 consec. terms (12 yrs.)	Terms beginning on/after 1/1/93	Yes
Arkansas ²	Proposed Constitutional Amendment Number 4 (11/3/92)	60% 40%	Constitutional Amendment	H: 3 2-yr. terms (6 yrs.) (L.) S: 2 6-yr. terms (12 yrs.) (L.)	Terms beginning on/after 1/1/93	Yes
California	Proposition 134 (11/3/92)	63% 37%	Statute	H: 6 or more of previous 11 yrs. S: 12 or more of previous 17 yrs.	Terms beginning on/after 1/1/93	Yes
Colorado	Amendment 5 (11/8/90) Amendment 17 (11/8/94)	70% 51% 49%	Constitutional Amendment Constitutional Amendment	H: 6 consec. terms (12 yrs.) S: 2 consec. terms (12 yrs.) H: 3 consec. terms (6 yrs.) S: No change (2 consec. terms/12 yrs.)	Terms beginning on or after 1/1/91 House and Senate terms beginning on or after 1/1/96	No No
Florida	Amendment 9 (11/3/92)	77% 23%	Constitutional Amendment	H: 8 consec. yrs. S: 8 consec. yrs.	Terms beginning on/after 1/1/93	Yes
Idaho	Proposition 2 (11/8/94)	59% 41%	Statute	H: 6 or more of previous 11 years S: 12 or more of previous 23 years	Terms beginning on/after 1/1/95	Yes
Maine	Question 1 (11/8/94)	63% 37%	Statute	H: 6 or more of previous 11 yrs. S: 12 or more of previous 17 yrs.	Terms beginning on/after 1/1/95	Yes

CRS-4

TABLE 3. Ballot Initiatives Passed—Continued

State	Identifying no./date passed	Yes/No vote percent	Proposal type	Federal legislator's limits	Does limits apply	Ballot action
Massachusetts	Question 4 (11/6/94)	51% 49%	Statute	H: 4 consec. terms (6 yrs.) in a 9-yr. period S: 2 consec. terms (12 yrs.) in a 17-yr. period	Excludes the current terms of persons serving as U.S. Representative and U.S. Senator from the Massachusetts	Yes
Michigan	Proposal B (11/3/92)	59%	Constitutional Amendment	H: 3 terms in 12-yr period (6 yrs. in 12) S: 2 terms in 24-yr period (12 yrs. in 24)	Terms beginning on/after 1/1/93	No
Missouri	Constitutional Amendment No. 13 (11/3/92)	74%	Constitutional Amendment	H: 4 terms (8 yrs.) [L] S: 2 terms (12 yrs.) [L]	After 1 of the States enact congressional term limits	No
Montana	Constitutional Initiative 64 (11/3/92)	67%	Constitutional Amendment	H: 6 yrs. in 12 S: 12 yrs. in 24	Terms beginning on/after 1/1/93	Yes
Nebraska	Measure No. 407 (11/3/92)	68%	Constitutional Amendment	H: 4 consec. terms (6 yrs.) S: 2 consec. terms (12 yrs.)	Terms beginning on/after 1/1/93	Yes
	Measure No. 408 (11/6/94)	68%	Constitutional Amendment	H: 3 consec. terms (6 yrs.) S: 2 consec. terms (12 yrs.)	Terms beginning after the effective date of this amendment	Yes
Nevada	Question No. 8 (11/6/94)	70%	Constitutional Amendment	H: 3 terms (6 yrs.) S: 2 terms (12 yrs.)	Limits apply as of 12/31/96, but are not effective until 24 other states have similar measures.	Yes
North Dakota *	Initiated Measure No. 5 (11/3/92)	55%	Statute	H: 12 yrs [L] S: 12 yrs [L] Comb. 12 yrs [L]	Officers elected to after effective date of the measure	Yes

CRS-5

TABLE 3. Ballot Initiatives Passed—Continued

State	Identifying no./date passed	Yes/No vote percent		Proposal type	Federal legislator's limits	Dates limits apply	Ballot account ^a
Ohio	Issue 2 (11/3/92)	66%	34%	Constitutional Amendment	H: 4 consec. terms (6 yrs.) S: 2 consec. terms (12 yrs.)	Terms beginning on/after 1/1/93	No
Oklahoma	Question 662 (9/20/94)	67%	33%	Constitutional Amendment	H: 3 2-yr. terms (6 yrs.) [L] S: 2 6-yr. terms (12 yrs.) [L] Comb: 18 yrs. [L]	Terms beginning after passage	No
Oregon	Measure No. 3 (11/3/92)	69%	31%	Constitutional Amendment	H: 6 yrs. (3 terms) [L] S: 12 yrs. (2 terms) [L]	Terms beginning after passage	Yes ^f
South Dakota	Constitutional Amendment A (11/3/92)	63%	37%	Constitutional Amendment	H: 6 consec. terms (12 yrs.) S: 2 consec. terms (12 yrs.)	Congressional terms beginning after 1992 election	No
Washington	Initiative Measure 573 (11/3/92)	52%	48%	Statute	H: 6 yrs. in 12-yr. period. S: 12 yrs. in 18-yr. period.	Terms beginning after passage and approval of similar Federal limits by 9 other States	Yes
Wyoming	Proposed Initiative No. 2 (11/3/92)	77%	23%	Statute	H: 6 yrs. in 12 (3 consec. terms) S: 12 yrs. in 24 (2 consec. terms)	Terms beginning on/after 1/1/93	Yes

Mr. CANADY. Thank you, Mr. Deal.
Mr. Peterson.

STATEMENT OF HON. DOUGLAS "PETE" PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. PETERSON. Thank you, Mr. Chairman, for allowing me to testify to the committee today on congressional term limits. This is an extremely important issue for all of us. I appreciate this opportunity to present my views, particularly as they apply to the retroactive term limits on all Members of Congress.

I can assure the committee that amending the U.S. Constitution is not a matter I take lightly. However, because I strongly believe the time has come for serious reform in the Federal legislative and electoral process, I have introduced H.J. Res. 52 which establishes retroactive 12-year term limits for Members of Congress and addresses a second constitutional issue by proposing to change from 2 years to 4 years the length of House terms.

I introduced this proposed constitutional amendment because the time has come to ensure that the American people are represented by a Congress populated by the people with fresh ideas and a commitment to serve rather than entrenched career politicians, mostly concerned with their reelection and out of touch with the views of ordinary Americans. The extension of 4-year terms will dramatically decrease the extraordinary amounts of money spent on campaigns in this country.

In fact, it is the best campaign finance reform effort we could ever do. It would cut the cost of running campaigns in half.

More importantly, it will allow House Members to focus on legislation rather than being preoccupied by constantly raising money. This change will give House Members time to concentrate on the business of their constituents, the American people, rather than immediately setting their sights on their own reelection.

This change goes hand-in-hand with term limits as a way to end the self-interest that pervades our current system. Mr. Chairman, the American people believe in term limits now. The American people have grown wary of so-called term limit supporters who want to exempt current lawmakers from limits that apply to future generations.

That position suggests that we trust ourselves, not those who will come after us. That those of us here now are the only group noble enough to serve the best interests of the American people. That we are alone the voices of virtue, ethical enough to avoid the temptation of self-indulgence that has proven to be the downfall of scores of those who have preceded us.

There may be honest disagreement among us as to the need for congressional term limits, but how can publicly-recognized supporters of term limits look in the face of the American people and say, yes, term limits are a great idea, but I don't want them to apply to me. I think that since we are looking at a constitutional amendment here for only the 18th time since the Bill of Rights was written that to say that they don't apply to me is the height of hypocrisy.

I understand how those who wish to exempt current lawmakers can look to the two failed State referendums on retroactive term

limits as validation of their views, but honestly do opponents of retroactive term limits really believe the American people support the right of current Members in Congress to become career politicians? I don't think so.

I can tell you that everywhere I go in my district, at every town hall meeting my constituents tell me that they want to put term limits on current Members of this Congress. They want term limits to take effect immediately, not 20 years from now.

Mr. Chairman, we cannot underestimate the importance of the issue of retroactivity in these times of change and the movement toward reforming the excesses which have tarnished the institution of Congress. When debating term limits we must not allow ourselves to fall prey to the same self-serving indulgence which has led us to this debate in the first place.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Peterson follows:]

PREPARED STATEMENT OF HON. DOUGLAS "PETE" PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Thank you, Mr. Chairman, for allowing me to appear before the Committee today to testify about this extremely important issue. I appreciate the opportunity to present my views on the need to impose *retroactive* term limits on all Members of Congress, and to change from two years to four years the length of terms for House Members.

I can assure the Committee that amending the United States Constitution is not a matter I take lightly. However, because I strongly believe the time has come for serious reform of the federal legislative and electoral process, I have introduced H.J. Res. 52, which establishes retroactive 12-year term limits for Members of Congress and increases to four years the length of House terms. I introduced this proposed amendment because the time has come to ensure the American people are represented by a Congress populated by new people with fresh ideas and a commitment to serve, rather than an increasingly arrogant group of entrenched career politicians out of touch with the views of ordinary Americans and concerned only with their own re-election.

Four-year terms will dramatically decrease the extraordinary amounts of money spent on campaigns in this country, and allow House Members to be less preoccupied with constantly raising that money. This change will give House Members time to concentrate on the business of their constituents and the American people, rather than immediately setting their sights on their own reelection. This change goes hand-in-hand with term limits as a way to end the arrogant self-interest that pervades our current system.

Mr. Chairman, the American people have grown sick and tired of this arrogance—an arrogance epitomized by the attempt of some so-called term limits supporters to exempt current lawmakers from the limits that apply to future generations. Does this mean that we trust ourselves but none of those who will come after us? That we alone are the only group noble enough to serve in the best interest of the American people? That we alone are the voices of virtue, ethical enough to avoid the temptations of self-indulgence which have proven to be the downfall of scores of those who have preceded us?

There may be honest disagreement among us as to the need for congressional term limits. But how can publicly recognized supporters of term limits look into the faces of the American people and say, "oh yes, term limits are a great idea, important enough to amend the Constitution for only the 18th time since the Bill of Rights. So long as they don't apply to me." Mr. Chairman, I find this attitude to be the height of hypocrisy, and a perfect demonstration of why term limits are necessary.

I understand how those who wish to exempt current lawmakers can look to the two failed state referendums on retroactive term limits as validation of their views. But honestly, do opponents of retroactive term limits really believe the American people support the right of current Members of Congress to become career politicians? I can tell you that everywhere I go in my district, in every town hall meeting, my constituents tell me they want to put limits on how long Members of this Congress can serve. They want term limits to take effect immediately, not in 20 years.

Mr. Chairman, we cannot underestimate the importance of the issue of retroactivity in these times of change and the movement toward reforming the excesses which have tarnished the institution of Congress. When debating term limits, we must not allow ourselves to fall prey to the same self-serving indulgence which has led us to the debate in the first place.

I would be happy to answer any questions at this time.

Mr. CANADY. Thank you, Mr. Peterson.

Finally, Representative Thornton.

STATEMENT OF HON. RAY THORNTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. THORNTON. Thank you very much, Mr. Chairman. This is my first time in this room to testify. However, the gentleman from Michigan, Mr. Conyers, and I are the only people in this room now who sat on the impeachment inquiry of President Nixon; and I recall well my seat four seats over, next to Barbara Jordan, as we went through that process, which ended with three Southern Democrats, including myself, joining with four Republicans, principled constitutionalists in determining and shaping the articles of impeachment which all of us agreed had to be brought. And I do appreciate your reference to Chairman Rodino who did such a superb job.

I do understand that you have made a part of the record my formal testimony. Let me just highlight a couple of points.

Term limits are upon us. The people have spoken. They are being adopted on a State-by-State basis throughout the United States. As the lead defendant in the *U.S. Term Limits v. Thornton* case, now up for decision before the U.S. Supreme Court, I contended that uneven term limits varying from State-to-State prevented equal representation of the people, and that term limits should be applied uniformly by an amendment to the U.S. Constitution. I believe very strongly that equal representation requires that term limits be applied on a uniform basis throughout the Nation.

But one reason the people are calling for term limits is because they are frustrated with the political process. They are concerned about more than limitation of terms. They are concerned about the influence of wealth in obtaining seats in the House and in the Senate. They are concerned about the inability to have meaningful campaign finance reform. They are concerned about seeing how Members of the House of Representatives come to this office and within 6 months have already begun plans to campaign and raise money for a future campaign with extraordinary amounts of money being required for that process.

For my first term in the Congress in 1972, I spent a total of \$60,000 to be elected a Member of the Congress. I didn't have a campaign for the next two terms. So that was the entire amount of fundraising that I had to do. Now it is totally different.

It is extraordinarily difficult for people to do the legislative job and at the same time to raise money for reelection. That is why I propose a term limitation of 12 consecutive years, with the effective date being January 1st of this year, any time served after January 1st of this year counts toward that 12 consecutive years' limitation. The terms would be made up of two 6-year terms in the Senate, and three 4-year terms in the House, and I propose measures which materially improve our ability to be a responsive group,

including a prohibition against any raising or spending of campaign funds until the last 18 months of a term.

That means, for 2½ years a Member of Congress would come up here and would be prohibited from raising money or engaging in campaign activities. The people would have at least that much of their Representatives' time—and many States have done this, Mr. Chairman; they have gone to 4-year terms for State offices because of the experience. But this proposal spells it out. It also precludes a Member of the House from raising money to run for a Senate seat in the middle of the term. That, again, is an advance in campaign reform, which is much needed.

And my proposed amendment, No. 65, would further limit individual citizens employing their own great wealth to secure an election by allowing the Congress to impose limitations upon campaign expenditures from all people.

Thank you very much, sir, for the privilege of joining you today to present this term limit proposal, which includes campaign finance reform.

Thank you, sir.

[The prepared statement of Mr. Thornton follows:]

PREPARED STATEMENT OF HON. RAY THORNTON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ARKANSAS

Mr. Chairman, the people have spoken. Term limits are happening. They are being adopted on a state-by-state basis, although with quite a bit of variation. As the lead defendant in the Arkansas term limits case argued before the Supreme Court recently, I contended that unequal term limits threaten the equal representation of the people and that term limits should be applied uniformly by an amendment to the U.S. Constitution.

The time has come to limit terms of all Congressmen and Senators. However, the people of the United States are for term limits as a part of real campaign reform, and if we're going to amend the U.S. Constitution, we ought to do the most good we can.

We should start the clock on term limits today, and my proposal affects current members of Congress.

We must limit the importance of money in our electoral process, and my proposal puts a stop to fund-raising and to campaign spending until election season. It accomplishes this by establishing a four-year term for representatives and a moratorium on raising and spending campaign funds until the last eighteen months of an incumbent's term.

The ever-escalating cost of running for federal office discourages qualified candidates from running and contributes to the influence of monied special interests. Present laws require enticements—like matching funds—to encourage candidates to participate in a voluntary system of campaign spending limits. My proposal would clarify the constitutionality of campaign spending limits.

Candidates for office should rise to the top because they are the best qualified, not because they possess great wealth. Present laws limit the rights of wealthy individuals to contribute to other candidates. My proposal limits the amount of personal wealth that candidates can spend on their own campaigns.

Under my proposal, both Senators and Congressmen would be limited to 12 years in office. This provides a suitable balance that prevents entrenchment but gives adequate time to develop legislative expertise.

Mr. Chairman, as I have discussed this proposal with advocacy and public interest groups, certain questions have been asked. Some of those questions and my responses are included as a part of my testimony. I thank you and my colleagues for your consideration of my proposal.

QUESTIONS AND ANSWERS ABOUT H.J. RES. 65

Why do we need an amendment to the Constitution to limit congressional terms?

In America there is on-going and widespread support for regular, mandated turnover in offices of government.

The issue here is whether equal representation of the people can be assured when qualifications for service in Congress are established on a piecemeal, state-by-state basis.

The practical concern is whether standards of fairness and equality are violated when term limits vary from state to state, because states that do not impose term limits are placed in a position to dominate the legislative process.

Small states, like Arkansas, are particularly vulnerable to being effectively shut out of the legislative process when their officials have limited terms, while officials from large states, like New York, Texas, and California, do not.

An amendment to the U.S. Constitution is needed to assure that term limits apply equally to all states.

How would this amendment limit terms?

This amendment would limit service in the U.S. House and the U.S. Senate to 12 consecutive years.

Senate service would be limited to 2 six-year terms, and House service would be limited to 3 four-year terms.

Why 12 years?

A twelve-year limit provides a suitable balance between the need for rotation of service to prevent entrenchment and the need for continuity and adequate time to develop legislative expertise and facilitate efficiency in government.

It also appears to be the time period with the most support in Congress and the most positive chance of passing this year.

Why not a lifetime limitation?

A limit on consecutive service provides for regular, mandated turnover and helps level the playing field between incumbents and challengers.

Unlike a lifetime limit, a limit on consecutive service gives candidates an opportunity to gain experience in other areas of endeavor which may make them more valuable public servants if voters choose to elect them.

Why four-year terms instead of two-year terms for the House?

The practical effect of two-year terms is that office holders are usually afforded less than six months of service before having to begin the reelection effort.

Many states have implemented four-year terms for public officials in order to reduce the amount of time spent campaigning and increase the amount of time spent governing.

Why are equal limitations for both bodies important?

Equal limitations allow for parity between the House and Senate and do not give one body an experience advantage over the other.

Does this amendment apply to current Members of Congress?

Unlike many other proposals, this amendment does not exempt Members of Congress who are presently serving.

Although it does not apply entirely retroactively, this amendment does start the clock on January 1, 1995, so the current service of Members of Congress does count against the twelve-year limit.

Doesn't real congressional reform mean more than term limits?

People throughout the nation have registered their approval of term limits for local, state, and federal elected officials.

This movement reflects the desire of the American people for new faces and new ideas, but it also reflects a frustration with the influence of special interests on government—and on Congress, in particular.

The influence of special interests goes hand-in-hand with politicians' need for constant fund-raising to cover the ever increasing costs of campaigns.

Real congressional reform means more than term limits—it also means addressing campaign finance reform issues.

How does this amendment address campaign finance concerns?

1. This amendment restricts the solicitation, acceptance, and expenditure of campaign contributions for incumbent candidates to the last 18 months of the term being served.

Members of Congress should be required to do the job they were elected to do before they start the process of campaigning for reelection.

With the establishment of four-year terms in the House, U.S. Representatives would be required to serve more than 2 years before they could begin campaigning for reelection.

This amendment would help even the playing field between incumbents and challengers by eliminating the ability of Members of Congress to start raising campaign funds on the first day that they arrive in Washington.

These restrictions would reduce the pressure on elected officials to raise campaign funds, thereby decreasing the influence of the parties who make those contributions.

2. This amendment effectively eliminates the ability of incumbent Members of Congress to raise or spend Money for other elected offices while Serving in congress.

Members of Congress should use their offices to legislate, not raise money for other campaigns.

By restricting incumbents' fund-raising and campaign spending to the last 18 months of the terms being served, Representatives are effectively prohibited from running for the Senate in the middle of their four-year terms without first resigning.

This restriction would also effectively deter Members of Congress from using their positions in Congress to raise reelection funds which could then be transferred to a race for Governor or another office.

3. This amendment allows for the establishment of additional limits on campaign contributions for any federal elected office, including the expenditure of personal funds by a candidate.

As the costs of campaigns have increased, so have the number of very wealthy individuals who are elected using their own personal funds.

The obvious disadvantage to Americans of modest means may keep many individuals from even considering a run for Congress.

This amendment allows for the establishment of additional limits on campaign contributions which would diminish the influence of monied special interests on federal elected office-holders.

4. This amendment allows for the establishment of spending limits for campaigns for any federal elected office.

The costs of running for federal elected offices may keep many individuals from even considering a run for Congress.

One way to get a handle on the ever-escalating cost of campaigns is to cap the amount that candidates may spend in campaigns for federal elected offices.

Campaign spending limits reduce fund-raising pressures and help mitigate the perceived fund-raising advantage of incumbents by enforcing an even playing field between challengers and incumbents with respect to campaign expenditures.

This amendment would clarify the constitutionality of campaign spending limits, thereby ending the practice of having to entice candidates to participate in a voluntary system of campaign spending limits.

Mr. CANADY. Thank you, Mr. Thornton. I want to thank all of the members of this panel. I have just a brief question on this issue of retroactivity. I think in a way that may be a little bit of a misnomer. The question is whether terms that have been served prior to the effective date are going to count toward the term limit.

Now, Mr. McCollum, your proposal, of which I am a cosponsor, is very elegant and short. It gets right to the point. It says, no person who has been elected to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times shall be eligible for election to the House of Representatives.

Now, is it your view of the way this should be interpreted that elections that take place prior to the effective date of the amendment would not count toward the two-term limit in the case of Senate Members and the six-term limit in the case of House Members?

Mr. MCCOLLUM. That is correct, Mr. Chairman. Legal scholars and research show us that unless a legislative body specifies that an act or an amendment to the Constitution is going to be retroactive, then it is presumed not to be. That is the normal language of interpretation in any kind of review that I have ever studied, and that is what the Library of Congress' research team has told us. And as I suggested earlier, I would be glad to submit for the record an analysis which I have recently obtained from them to re-

confirm what had been told to me years ago when we first drafted this, that that is precisely the simple language that we have got in the constitutional type of amendments. You don't need to put more in it; it is effective prospectively unless you specifically say it is retroactive.

So in other words, as you stated, it would apply for Members who are seated now, whether they have been here for one term or two terms, or however many, as it would for a new Member who is elected that year. Everybody would start fresh at the moment when the constitutional amendment became ratified by the 38 States. The next election after that would begin the running, and I would submit that would be true of any of the proposals that were put forward here unless they specifically stated that they were going to be retroactive.

Mr. CANADY. OK. Thank you.

Mr. Peterson, on this whole issue of retroactivity, however you wish to designate, it is a major concern of yours. What is your view of Mr. McCollum's amendment and the impact of that? I think an argument can be made that goes counter to what Mr. McCollum is saying. How would you interpret the language of Mr. McCollum's amendment?

Mr. PETERSON. Well, I will leave that up to the legal scholars. I think probably he is correct in that we do, as a matter of course, designate in the bill when something is going to be effective and when it is not. But you know, I think you are right. I think that could be open for discussion, and it has been open for discussion by a number of scholars taking opposite views to what Mr. McCollum has just said.

I think there is a case in point here, though, to be made. The term limit issue, as has been proposed to the American people, has been a little dishonest if, in fact, it is to suggest that it is not retroactive. The American people believe that this term limit proposal, whether in the States or whether it be nationally, that it applies to everyone sitting. Now, the reality is, the political reality is, it is very difficult to get people who are sitting in a position to cast a vote to say that they are going to have their particular term terminated; and that is why the State of Washington and I believe the other State was Utah, weren't able to do it in a retroactive fashion; they had to do it prospectively. But I absolutely believe that we are letting down the American people by not making this retroactive and getting on with the business at hand.

Mr. CANADY. One observation I will make: The people of Florida in their term limits initiative were very careful to make the application of it prospective only, so that terms that had been served prior to the enactment of that initiative, or that amendment to the Florida Constitution, clearly do not count toward the limit; and that—I think that has been done in many other States as well. So—

Mr. PETERSON. I think if you will, Mr. Chairman, if I may suggest that—that, I think, was made from the very political reality that they didn't think that they could get anyone to vote for terminating a term by a sitting legislator. And the other point was that that is the shorter term. If you looking at a 12-year term, you know, you are talking about another generation; whereas if you are

looking at 6 or 8 years, that this is probably a more reasonable time to make it less onerous, if you will, on not having it retroactive.

Mr. CANADY. I would like to ask Mrs. Fowler if she has a comment.

Mrs. FOWLER. I would just have to disagree a little bit with my colleague and remind him that this referendum in Florida and these other States has been voted on by the citizens of the State, not by the State legislature, so the citizens of the State had no political interest as far as whether they were going to be seated or not. It was not the State legislature voting, which would have then had a political interest in making it prospective or retroactive; but it is the citizens of our State who said, this is the way we want it to work.

I think there is some confusion here between retroactive and grandfather clauses. If there was a grandfather clause in all of these, then it would mean that the people currently serving would be affected. But there is no grandfather clause, as far as I know, in either of these bills, so that once an amendment does take effect, it will apply to them. It doesn't mean some of us serving here it will never apply to.

So there is a real difference between retroactivity and grandfather clauses, and I think there is maybe a little confusion there.

Mr. CANADY. Thank you very much.

Mr. Frank.

Mr. FRANK. Mr. McCollum, you listed in your testimony a lot of negative effects that happen when people are here too long. Now, you did mention that you have consistently supported a 12-year term limit in all 14 of your years here, and I am wondering, have you been able to avoid those ill effects, and if so, how, because maybe the rest of us could profit from it.

You said, being here too long, you begin to lose touch and you get to be a careerist and you don't want to make tough votes. I assume you have been immune from these effects and I wonder if you would share—or have you fallen prey to them?

Mr. MCCOLLUM. Mr. Frank, I suspect that I have, although it is difficult for anybody to do a self-analysis and understand that particular part of it. I would suggest to you, Mr. Chairman, Mr. Hyde sitting up beside you, I want to pick on him for a second.

Mr. FRANK. Well, let me defer to Mr. Hyde when his turn comes; I am interested in yourself. Because I would think—you talked about these bad effects. I mean, you say you are not immune to them. What negative effects do you think it has had on your career?

Mr. MCCOLLUM. I would like to talk about myself in the context of Mr. Hyde, just to give an illustration.

I think there are people here that you don't have the negative effects from. I would like to believe that I am one of those. I think Mr. Hyde is one of those. I think you are one of those. But I would suggest to you that the problem is, the institution as a whole; we have to look at the whole body.

Mr. FRANK. Two out of three isn't bad.

Mr. MCCOLLUM. I want to tell you this, Mr. Frank.

Mr. FRANK. Mr. McCollum, please, I think you are evading the question. We are not talking about people as a whole. The institution is composed of Members, and you made comments—I disagree with you.

I think that, in fact, Mr. Hyde is not the exception; I don't think most of us are the exception. I do not see—and Members who have been here a long time—let me put it this way. I don't think if you listed a willingness to make tough votes that you would have a correlation that the longer people are here, the less willing they are to make tough votes. My experience as a member of the whip organization is that it was the other way around. That the longer people were here, the more willing they were to make votes.

Mr. MCCOLLUM. I think that when you are talking about making tough votes, you are talking about a lot of times the pressure groups, whether it is the AARP, or whether it is the veterans or whatever group it may be, the interests that most Members have in the back of their minds, no matter how long they have been here. It really is irrelevant how long they have been here; it is the fact that most Members are constantly worrying about not displeasing the group to get reelected. They are interested in putting those votes together. I think that is true of everybody.

I think that way; I think probably you think that way. Maybe you subconsciously don't, but I think you probably do.

Mr. FRANK. I am trying to stay off of subconscious this week. I had enough of that last week.

But let me say, Mr. McCollum, I am a little surprised that you would tell me that this consideration which you raise as an argument for term limits is unaffected by how long you have been here. If it is unaffected by how long you have been here, what does it have to do with term limits?

Mr. MCCOLLUM. It has to do with term limits in the sense that I think we need to remove some of that, and by taking away the pressures of constant reelection, of saying you have a finite time to be here, particularly if you link them as well as to time you have been here, you are any time going to statistically have Members here that have less pressure on them and would like to make independent value judgments, not thinking they are going to make a career out of this.

Mr. FRANK. So the argument is not that the length of time is in some way debilitating, but that it is a good thing at any given period of time to have a significant number of Members ineligible—

Mr. MCCOLLUM. So they pay a little bit less attention to every special interest group which cumulatively has a negative impact.

Mr. FRANK. I understand. What you have done is define the democratic influence as a negative; I understand that. What you said is, it would be better if a significant number of Members were not facing reelection pressures.

Now, my understanding of the way democracy works is that reelection pressures is the main enforcer of the people's will, and what you are saying is, you think the people's will, as it manifests itself, is a negative influence, and—

Mr. MCCOLLUM. Mr. Frank, if I might respond, I don't think that it is a question of the people's will; I think it is negative because

Members presume stuff. It is not the general will; it is because they are trying—

Mr. FRANK. If I could take back my time, you can characterize it as you wish, but the result is the same. Your view is that insulating Members from concern about how the voters will react is a good thing, and therefore, we ought to do term limits not because the longer you are here, the worse you are, but because at any given time it will mean some people can't run for reelection, they won't have to worry about how the voters will comport themselves, and the voters will give too much of their stuff to special interests.

Let me just ask one other question. On retroactivity, I do have to say I don't—I am not in favor of the term limits, but I don't understand any objection to Mr. Peterson's point. If, in fact, it is a good thing to have term limits—I am going to quote my friend Mr. Hyde; I apologize, because I assumed he was going to use it, but he is the one who familiarized us all with the quote by Saint Augustine, "Lord make me chaste, but not now," or, "not yet." I assume I got that correct; I have heard the gentleman say it enough.

Mr. HYDE. That is right, but it applied to me many years ago.

Mr. FRANK. But the point is that I do not understand the logic of this. If there are benefits to be served from term limits, what are we waiting for?

Mr. MCCOLLUM. Well, if you are asking me to respond to that question, I would be glad to respond to it.

Mr. CANADY. Briefly.

Mr. MCCOLLUM. I will be brief.

I think we are a representative democracy, and basically the people speak through us; and I think, quite frankly, retroactivity is not what they want. I think what they want is term limits. They want to limit everybody from a period in time when you go forward, and I don't think—

Mr. FRANK. Would you favor, say, taking a national poll and if they were in favor of retroactivity then we would be for it? Because I don't think this comes up—

Mr. MCCOLLUM. I think you have already seen them speak in the two States where they have spoken, and I think that is a consistent view. I believe in—

Mr. FRANK. None of the other—48 are yet to be heard from.

Mr. MCCOLLUM. I just said, I believe in a representative democracy, which is why, in answer to your other question, I think the answer is, we need to think in terms of representing those people, not impure democracy.

Mr. CANADY. Mr. Hyde.

Mr. HYDE. I thank you, Mr. Chairman, and I am in the anomalous position of guaranteeing that this will get to the floor, and so if I must, I will vote for this. I would like to vote "present," because I am adamantly opposed to it, but I do believe that it should reach the floor and be debated, because it is a major national issue.

That said, with some regret, I say to my Florida colleagues that your views are not all that influential with me, because your State has voted for an 8-year term and you better get in front of that parade and that is what you are doing, and I understand that. So that is fine.

What I dislike about this whole thing is, you are responding to a view that somehow to be a politician is to be corrupt, and that is the unstated premise behind all of this. I have spent 20 years in this job. I never met a finer group of people—male, female, liberal, conservative—more moral, more patriotic and more citizen in the best terms because they read their mail and they respond to the entreaties of their citizens and they go home.

A finer group of people I have never met. But the unstated premise is, you are corrupt or you will be corrupted if you stay here very long.

Now, I want a career dentist to work on me, career. I want him to have been there. Therefore, what about a career politician? Isn't that—can't anybody do that job, anybody? Get the first 400 names out of the directory. I just made a little list of the things you had better be expert in, you had better be knowledgeable about if you are a politician serving in this building: agriculture, environment, weapons systems, international relations, banking, finance, urban affairs, tax policy, budget policy, administration of justice, bankruptcy law, tort, medical malpractice, product liability, immigration policy, criminal law, intellectual property, customs, health care, trade policy, education and labor, and on and on and on and on—a lifetime's work, to know about one of these subjects. You better know about a lot of them, because you are voting for your people.

This is not an easy job, and it can't be done overnight. It takes years. When they operate on your brain, when they bring that saw next to your skull, you had better ask for a career neurologist who is going to do that. And you had better, in time of national crisis—not a check-writing scandal; I mean, when the nuclear bombs are about to fly, I mean when Iran is going to take over the Persian Gulf—you better have some Everett Dirksens, some Henry Jacksons, some Hubert Humphreys, you had better have a few people who have been there before and have some institutional memory.

You demean the importance of this job by saying anybody can do it.

And lastly—I don't want to get too wound up, and I am wound up on this issue because I think my country's future depends on the caliber of people at the till—I just say to you that when you talk about citizen-legislator, don't demean the rest of us. I hate personalizing anything, but I am a citizen-legislator as anybody who pays their dues to these groups. I enlisted in the Navy at 17. I made the invasion of Lingayen Gulf January 9, 1945.

I have loaded freight cars, I have delivered eggs, I have delivered newspapers, I have calcimined ceilings for a quarter an hour. I have earned my spurs; I know what life is all about. I have been there. I am a citizen. And don't say I am not, and don't say, some citizen-legislator who is home watching television while I am attending innumerable butcher shop openings and testimonial dinners and doing years and years of constituent service, that somehow that is unfair and I ought to be defeated by formula rather than at the ballot box.

I am sorry. I think that hurts our country, and as I have breath, I am going to fight it. Thank you.

Mr. CANADY. Thank you, Mr. Hyde. We have a vote, as you have heard from the bells, so at this point we will recess and we will continue with this round of questions after the vote.

We will reconvene in 20 minutes.

[Recess.]

Mr. CANADY. The subcommittee will come to order. We will proceed.

Someone has 30 seconds to respond to Mr. Hyde's speech. Who wishes to take that on?

Mr. MCCOLLUM. If I might, Mr. Chairman, he was looking right over at me. If I might, Mr. Chairman, I don't want to respond in any way. We certainly never impugned the integrity of Mr. Hyde. He is an old friend of mine and a good friend. I simply would suggest that most freshmen do have to make votes while they are here.

Mr. Hyde, while they don't have the experience or wisdom that you may have—and I yield that point—they make all the tough votes and the public doesn't understand the distinction you are making about it.

Many, many people before the turn of the century were serving in this country and most of them—as a matter of fact, the vast majority, including some of the great ones. And we are now in a very complex society; perhaps you are right about that. But I think there are thousands and thousands of good men and women who can come in here and do a very good job.

But you do make an excellent point for my 12 years' limit as opposed to 6. I think that you are absolutely correct that what you have criticized about this institution needing knowledge would be very apropos of being concerned about somebody serving as few as 6 years and having leadership and chairmanship positions. But I can't debate the whole thing in 1 minute, and I won't try.

Mr. CANADY. Thank you, Mr. Watt.

Before you begin, Mr. Watt, we are running out of time today and I want to give all of the Members an opportunity to ask questions. But to the extent to which we can expedite this, I think it will be helpful. We have, I will point out—as you know, we have several other panels of witnesses, some of whom have been waiting for some period of time now.

Mr. WATT. Thank you, Mr. Chairman. I get the hint. And I think I understand the positions of all of the witnesses this morning, and I appreciate them coming and giving us their perspectives on this issue.

I find myself following Chairman Hyde two times in 1 day in saying amen and emphasizing his eloquence. I guess it is easier to emphasize someone's eloquence when they agree with you on what they are talking about, and so I don't want him to get too carried away with that. But I think his statement was extremely eloquent.

I am interested in the magic of 12 years or 8 years or 6 years and wonder how Mrs. Fowler, for example, might defend 8 years as opposed to 12 years, or Mr. McCollum might defend 12 years as opposed to 8 years. I mean, I don't want to take up a lot of time with that, but it would be interesting.

I really don't support either one of them, but if you start doing it, I am not sure how you decide what the magic number is, and maybe you all can clarify that for me.

Mrs. FOWLER. Thank you, Mr. Watt.

I don't think there is a magic number. I support 8 years; that is what the citizens of my State voted in in 1992, and I think that is a good limit. I am committed to abide by that limit, so as far as retroactivity goes, I have already put myself under it.

Mr. WATT. Just as a matter of curiosity, what was the percentage of voters who turned out in that election in your State when that issue was dealt with?

Mrs. FOWLER. It was a pretty high turnout, because 1992 was a big vote, that was a big election. We had a very high turnout in the State. Of the ones who turned out, 77 percent did support term limits.

This was a grassroots referendum. They had to gather the signatures, because all of those people who worked so hard to get it on the ballot, plus a Presidential election, too, were out there voting. I would have to get the actual figures, but it was a higher turnout than normal.

But as I said earlier, I don't think it is the number of years so much. We all agree—

Mr. WATT. So it is just a philosophy then that you are advocating for; it doesn't really matter whether it is 8 years or 12 years or 6 years; this is something that you believe the citizens demand.

Just as a matter of curiosity then, if the citizens are so concerned about this and we subject ourselves to elections every 2 years, why would it not be just the ultimate of democracy to allow that to work its will? I don't understand what is magic about any—I mean, you acknowledge there is nothing magic about the numbers. I submit myself to my constituents every 2 years. I have made it clear to them—and I doubt there is anybody on this panel after the last few days who would take the position that I don't have some independence of judgment, if that is what the criterion is. I mean, why—

Mrs. FOWLER. One, I don't support this just because that is what my citizens have said. When I was on the city council in the 1980's, I had a bill in for an 8-year term limit for our city council. I have my father who served 42 years in my State legislature; it is not to say I have nothing against career public servants, Mr. Hyde, because I think public service is an honorable profession and you will never hear me stand up—

Mr. WATT. Do you want to address the questions that I am asking now, rather than the one that Mr. Hyde—you had an opportunity to take the whole minute if you wanted to.

Mrs. FOWLER. I apologize. But as part of that, what we are saying is that term limits make elections more competitive, that the statistics show—

Mr. WATT. I am not sure I agree with that. If you got a 6-year term, it seems to me for that 6 years, it almost ensures that the same person is going to be elected for 6 years.

Mr. CANADY. The gentleman's time has expired.

Mr. WATT. Well, OK, that is fine.

Mrs. FOWLER. I will be glad to talk to you about it.

Mr. CANADY. Mr. Inglis.

Mr. INGLIS. Thank you, Mr. Chairman. I think we need to set the record straight on a couple of things.

You know, statistics are interesting things, of course, and Mr. Watt, the thing that I think is clear about what Mrs. Fowler is saying is that there is a lack of competition among elections. In fact, as Mr. Goodlatte was saying earlier, just to underscore that point, of those who wanted to be reelected in 1994, 90 percent were reelected. The turnover we got was because people voluntarily chose to leave this place. So we have very few competitive elections.

The year that I was elected, that may be the worst argument for term limits, because I defeated an incumbent, but 93 percent of incumbents were elected that wanted to come back; that was with the bank scandal going on. And before that, it was something like 96 percent that were reelected in 1992. So we have got a permanent Congress, and those statistics bear it out, I think.

But one thing that I would be very interested in getting comment on as to retroactivity, but before I do I feel that I must respond a little bit to what the chairman had to say—I think that there are two things we have to be very careful of as Members of Congress. One is assuming that we are indispensable, in fact, assuming that anybody listening to us is indispensable. The chairman of General Motors, I don't even know his name or her name, but if they dropped dead today, I imagine that they will find a replacement. Likewise, if I drop dead today, I assume that the 582,000 people of the Fourth District of South Carolina can find a replacement. So none of us is indispensable, and the fact is, I think, as we have all observed as Members of Congress: leave this place, come back, walk into the Members' dining room after several terms and see if anybody knows who you are—and anybody cares who you are. Because this is a temporary trust given us by the voters, and it is not something that we own. Very important to point out that we are not indispensable.

And second, it would be the ultimate arrogance I believe for me to say that I am the only 1 out of 582,000 people in the Fourth District that could do this job. There are more talented people than me in the Fourth District that know more about health care, that know more about weapons systems, that know more about agriculture than I do. I am not the only one there that can do this job. And it would be highly arrogant, I believe, of me to make that assertion. So it is very important that we understand that.

And one final thing before I get to the retroactivity question, which is really what I wanted to ask, is the question about whether we want a professional here. The fact is that we are not electing a professional; we are electing a representative, which is a very different role. I agree with the chairman, if I wanted a root canal, I would want somebody who had done it a few times. But the fact is that I think this is a culture of spending. And I asked Mr. Flanagan a minute ago, so I can give him credit for it—and I can't remember the author's name; if anybody can, tell me. But I think Cleta Mitchell is going to tell us when—James Payne; he wrote the book, I believe.

And in answer to Mr. Frank's earlier assertion, there is a culture of spending here, and we are going to find it, those tough votes that he was talking about; when it comes to balancing the budget, we

are going to discover the culture of spending. And I would predict right now that if you chart Members who have been here longer, they will shrink from those votes on cutting spending, because it is a culture of spending.

Mr. Frank likes to talk about the tough votes of raising taxes, but the tougher votes are cutting spending. And there will be wonderful exceptions, and I believe the gentleman sitting to my left will be a wonderful exception to that. But I believe if you look at the numbers when we get ready for making those cuts, you will see that the ones that have been here longer, Republican or Democrat, are part of a culture of spending, and you can graph it, that they will shrink from those cuts.

Now, on to my question with 1 minute left. Retroactivity, Mr. Peterson, we are experiencing something very unique in South Carolina right now on this retroactivity question, and I am surprised that you would propose retroactivity, because you seem to be a sincere proponent of term limits. In South Carolina, the experience we have had is that it is the opponents of term limits who are putting the poison pill into the bill, and they admit that they are opponents. Do you have any comment about that?

Mr. PETERSON. Well, I think that is what I alluded to earlier, that the reason that the States that have passed the term limit bill—they have made the realization that it is very hard to get anybody to vote—for a constituent or a representative to vote for those people who are sitting at that time, though I think that is the honest way to do it.

Even in our referendum in Florida, people didn't have an option to vote for retroactivity. And for prospective position, there was only one thing; it just said term limits. And the average citizen immediately thinks, well, that is now.

And so the poison pill, yes, I think there are some people who weren't looking at this philosophically. They are trying to kill this. I can assure you, I am not.

Mr. CANADY. The gentleman's time has expired.

Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman. I would like to think that I could become the poster child for the antiterm limits movement.

I came here in March 1990. During my 9 months, 45 seats changed hands; the second term, 110; and I believe this year was 87. If my calculations are correct, that is about 242 seats that have changed hands since March 1990.

Some people say, well, these people, a lot of them left on their own. The result is the same; the result is the same.

Incidentally, I was sworn in on March 28th. I was supposed to be sworn in on March 27th with Ms. Molinari, but I chose March 28th because it was the 38th anniversary of my parents' arrival from Puerto Rico, and I thought it would be a great tribute to their many years of working in a factory to see—although they were not alive—to have their son reach Congress. I chose that day, and I am sure they would not have thought of Congress as an institution which, if I stayed a little too long, would immediately corrupt their son and make him into something that they did not bring me up to be.

So I would agree with Chairman Hyde and his brilliant statement that the institution doesn't corrupt anyone, that people either come here already corrupt, with the idea of being corrupt, or meet someone who corrupts them. But the institution does not.

Let me ask Mr. McCollum a question. You and Mrs. Fowler both have made a lot about the fact that the public supports this. Elected officials are usually very nervous about making statements like the one I am going to make now, that sometimes the public reacts to what is placed before them, and if the hysteria is against someone or in favor of someone, or against something or in favor of something, the public may react to that. We don't like to say that, because that sounds like they are not intelligent enough to make decisions on their own.

Let me ask you, in your State, Mr. McCollum, if a resolution went before the people saying that Members of Congress should not be paid a cent, do you think that would pass?

Mr. MCCOLLUM. No, I don't think that would pass, but I think that certainly a resolution would pass that said we ought to cut our salary. By how much, I don't know.

Mr. SERRANO. Do you think resolutions would pass in the majority of the States cutting our salaries to zero?

Mr. MCCOLLUM. No.

Mr. SERRANO. OK. I disagree with you. I think it would. I think Mr. Limbaugh, I think Mr. Liddy, I think all of the other Congress bashers and Government bashers would get on the bandwagon and a resolution would pass in most States, if not all, cutting our salary to zero. You and I may agree that this is not correct, but that is the feeling out there in this country, which this bill is at the center of perpetrating, which is this belief that Government is bad, that Government is all corrupt and that we should be run out of town as soon as possible.

Mr. MCCOLLUM. May I make a comment on that?

I would just like to point out that the polling data, Mr. Serrano, on term limits goes back many years. It has only become a hot focus issue in the last 10 or so. But there is data back in the 1950's that show the same 75 to 80 percent of the American people favoring term limits and they weren't as unhappy with Congress as an institution then as they are today.

Mr. SERRANO. Thank you, Mr. McCollum.

I would agree with some of the folks who have said that there is something terribly wrong when you object to the point that people get reelected.

You know, on another subject that talks to this, I have a bill in that I have had for 5 years now, 4½ years, ending the embargo on Cuba. And people who don't support my bill, which is a majority, tell me that the main reason why they won't do this is because the Cuban Government doesn't have the kind of elections we have. Yet, we have the elections we want and we get upset when people are reelected.

There is a contradiction as to how we look at our system. It is either right to elect people or it is wrong to elect people. And if they get reelected, there is nothing wrong with it; but we continue to hear this desire to get rid of us.

One last question, Mrs. Fowler. You are against retroactivity. Would you think that some supporters may be slightly dishonest with themselves and with ourselves in suggesting that once they have been here 12, 14, 16, 18 years that it is OK to immediately cut everybody's term, but they did not volunteer to cut their term before? Has something happened since I came to Congress that doesn't merit me staying around a certain amount of time, but something wonderful happened when they were around that allowed them to stay around a long time?

Mrs. FOWLER. No, Mr. Serrano. As I said, I don't have anything to gain or lose by this, because I have already committed to adhere to my State's 8 years. But I think that people who support term limits are being very honest in their support. No matter how long they have been here, they are saying, once they support term limits, once it gets enacted, then that is when it should apply, and the fact that they happen to have been here a few years before they get enacted, they should not be penalized for that.

We want to bring everybody on board supporting term limits.

Mr. CANADY. The gentleman's time has expired.

Mr. Flanagan.

Mr. FLANAGAN. Thank you, Mr. Chairman. In the interest of time, I will stay very short. I have two questions. First, Mr. Deal. I was very interested in your remarks about not trying to personalize this debate; and not in the terms of specific personalities here in this room or elsewhere, but in terms of relating to us as Members of Congress specifically, as opposed to the idea of term limits and as opposed to embodying in a document for the ages the constitutional rule of law, which will go on in perpetuity.

I wonder if you could expand upon that a little more, and rather than discussing the specific issues of retroactivity or whether the Members in Florida have this in their State or in any other States or whether we are reacting to political will of the time, but actually talk about the efficacy of having term limits insofar as the institution of Congress will be affected.

Mr. DEAL. Thank you.

First of all, I would point out my State does not have any term limits so therefore I am not speaking out of any self-preservation issue as I address it. And I don't suggest any derogation of intentions on the part of those who do. I think that their citizens have maybe made it more pointedly aware of their wishes in the States that have expressed that. I would point out, when you talk about these 22 States, they go from Alaska to Florida, from Maine to California. They literally crisscross this entire country. So it is hard to just say that it is the big States or the small States; it is all in between.

I suppose that the real question we have to ask is, what motivation is behind this public sentiment that is out there? And were there things that could have been done; are there things now that can be done that would remove that sentiment? Yes, I think there are several things.

First of all, I think this reaction is in part a reaction to an institution that is based on seniority. We didn't see that in the early days of our country; it did not require that you stay here 25 to 30 years to get to be a subcommittee chairman or Speaker or what-

ever. We have institutionalized that with a seniority system, and I think the public in part was reacting to that.

I think they are also reacting to the fact that, yes, incumbents run and get reelected, but the perception is, the reason that they get reelected in large part is this bias that they have of being able to raise the large sums of money from sources that the public sometimes cries out against and that they are in a preferential position to therefore return to office. And, therefore, there must be some external control of all of those elements.

Had we addressed those issues, perhaps the initiative for term limitation would not have been as intense as I really think that it is. And that, I think, goes back to ourselves.

Let me conclude with one quick little analogy. I used this when we testified before the Senate panel. You know, we have expiration dates for a quart of milk and for eggs that are in our refrigerator, and it is true if we abide by those we are going to throw out some good milk and some good eggs in the process. The determination is that in the overall scheme of things, on balance, it is what is best for us; and I think that—on balance, I think that what is best for us is to have a rotational system in this Congress. That doesn't mean that we are not going to lose good people. We will lose good people as a result of that.

But one of the things that distinguished our culture from those that have been alluded to and others is the idea that in the military—and Pete can certainly address that—the idea that any man steps forward when those that are ahead of him fall, any man can become the first sergeant, any man can take the place of the captain. That is what is unique about our democracy, and I think we need to restore that concept.

Mr. FRANK. Will the gentleman yield for one quick second?

I wanted to ask my friend on the question of retroactivity, given his analogy to bad food, would you be in favor of our being told that we should continue to eat the bad food for the next 12 years and then have it take effect after that?

Mr. DEAL. I probably will vote for the retroactivity provisions.

Mr. FRANK. Well, then I will have to ask somebody else.

Mr. FLANAGAN. I will forgo the other question, Mr. Chairman.

Mr. PETERSON. May I comment?

Mr. CANADY. I am sorry, but we are not going to be able to conclude this hearing unless we move forward.

Mrs. Schroeder.

Mrs. SCHROEDER. Thank you, Mr. Chairman.

I find this all kind of interesting in that this debate is going on at the same time many people are very worried about Mexico and the Government of Mexico, and as you know, they put in the best term limits of all. They have a rule that you can't run for any office more than once.

Now, I know the theory of citizen-legislator and all of that, and I think it sounds wonderful, I think that is why a lot of people when they are asked say yes; but if you look at Mexico, the last thing they have are citizen-legislators. They run for one office, then they figure out what the next office is, and then they figure out what the next office is. No one ever really learns their job, and it

becomes kind of a chair progression in which you are the most professional of all.

One of the things that I am confused about is you say citizen-legislator, but in all of these you allow people to run for the House and then they could run for the Senate, and then they could go run for Governor or they could go run for mayor or they could go run for State offices or they could start in State offices and go to Federal offices, so they could still find a way to spend their entire working career in public service. Therefore the whole theory that when they are in office at the end they will cost tough votes because they no longer have to pay attention to the people has often been found not to be true, because they are now looking at the people in another whole context for the next office that they are going to. My question is, if we are really talking about a citizen legislature here, why do you let them go on and run for other offices, such as Governor, mayor, such as Senator, and everything else?

Mr. MCCOLLUM. Could I respond to that, Mrs. Schroeder?

Mrs. SCHROEDER. Sure.

Mr. MCCOLLUM. First of all, I think it all has to be put in context of balance. I think there are extremes. I think Mexico is an extreme. I wouldn't want to go that way. That is the same reason I don't support the 6 years. I think that is too short. I think the 12 years is just right. I think that we ought to have symmetry with the Senate which is also 12. I think it would be wrong to imbalance the bodies. There is a balance question.

Secondly, with regard to the question of having Members become citizen-legislators, I think in the ideal, when the Founding Fathers came forward, that is the way it was, and I think many of us refer back to that as illustrative, but you are quite correct that there are many who will go on to other offices. The evil in this at the present time is the fact that this is a full-time body in my judgment, and that it is a year-round job, and therefore when you have somebody serving in the same institution and the same body of the House or whatever they gain the power Mr. Deal is talking about by the seniority process.

Now, we have limited on our side of the aisle this time committee chairmen's length of terms that they can serve which helps mitigate some of that, but it is still a seniority question, it is who is here the longest. I think again it is a balance question more than it is a, quote, pure citizen-legislator question. Many of them, however, will go back, they will not get elected to the other office, and they will go back home.

Mrs. SCHROEDER. Well, as you look at it, though, there is absolutely nothing here that guarantees the people a citizen legislature because you could do 12 years in the House, 12 years in the Senate, you could go be Governor, you could run for all sorts of other things, and come to find out they have spent their entire life in the public sector and maybe not known any of the jobs particularly well.

Mr. MCCOLLUM. Could I say—

Mrs. SCHROEDER. If I could also answer your comment about chairmen not being able to be here forever and ever, just by seniority, certainly I approve of having checks on chairmen we elect them

in our caucus, for example, and we do it by secret ballot and everything so we don't have autocratic chairmen.

I was the one who led that fight because I had the first chairman from Louisiana who literally made me share a chair with Mr. Delums for 2 years because he wanted no blacks or no women on his committee. So I agree with that, but the other side is from small States like mine—large States like yours, if you take California, Florida, and New York and Texas, you guys can run this place on numbers, and when it comes to formulas and everything, we just can become donor States because outside of numbers, the only other thing you can have is a chairmanship to try and balance that somehow.

Mr. McCOLLUM. Mrs. Schroeder, I might just say that is why the Senate is there, that is the difference, to take care of the little States.

Mrs. SCHROEDER. So we have to totally wait for the guys from the other body? I don't think that that is a good solution, but I guess we can differ on that.

Thank you very much, Mr. Chairman.

Mr. CANADY. Thank you. Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

I will attempt to be brief, and I may succeed because the only member of the panel who is opposed to term limits who I would like to ask questions to is Mr. Payne, and unfortunately he couldn't return, but I was interested in his comments regarding his election races against former Congressman Rodino, who I think many here would agree was a very fine Congressman, served 40 years. But my questions to Mr. Payne would have been, when you ran against him the two times you did, did you have a staff of 16 to 20 people working on all manner of constituent services as each and every one of us does to meet the constituent services that he could provide?

Did you have the franking privilege where he could send at that time unlimited and today, even today about 300,000 dollars' worth of unsolicited mail in each election cycle to match what he could do at that time? And I would ask him if he had Federal election laws that very much favor incumbents, particularly very senior incumbents in their ability to raise money, particularly PAC money, was that an even match?

I sincerely doubt it, and I sincerely doubt that we will ever get to the point of making the kind of changes that I think need to be made to create a much more level playing field, and I think that is why we have 95 percent reelection rates year after year after year and 20 percent approval rates. I wonder about the magic of how it is that every Member of Congress has such outstanding popularity but the Congress as a whole has very little.

I think it is in large part because the institution in the 20th century has been structured very much to favor those incumbents. That is a very, very significant contrast from the type of Congress that he cited some of the outstanding Representatives of the 19th century, Henry Clay, John C. Calhoun, Daniel Webster. If you go back and look at their records, yes, they all served for 20 or 30 years or more, but they were broken times of service. I doubt that

any of them had any period of time in which they served more than 12 years.

Mr. FRANK. Will the gentleman yield?

Mr. GOODLATTE. I will when I finish.

As a result, I would like to ask some members of the panel one question, and that is we want to recognize the kind of abilities and services of people, but we also want to deal with this problem of seniority and we want to deal with this problem of incumbents' advantages. Would you support changes in your amendments that would allow people to step out of service of Congress after whatever period of time it might be, let's take the 12 years that Mr. McCollum and I support, and at some time later in their life, in their career want to come back and run again? Does anybody want to address that? Mr. Thornton.

Mr. THORNTON. Thank you very much, Mr. Goodlatte. Indeed, my amendment does address that. It provides for a limitation of 12 consecutive years service.

Mr. GOODLATTE. We may want to talk about joining on that.

Mr. THORNTON. It also is not retroactive but starts immediately, January 1st.

Mr. GOODLATTE. I think that is an excellent point and I agree with those, and I think those who make the point that retroactivity takes so many people out of this Congress all at one time that we would lose some of the institutional memory that Mr. Hyde spoke about, we would probably lose a majority of the Members, between 150 to 200, at any given time here who have been here more than 12 years, plus those who decide to run for offices before 12 years, plus those who are defeated in the normal process. It would be a majority of the Members that we would lose all at once, and that would not be good, and that is why I oppose retroactivity. I think you are on the right track.

I yield back my time, Mr. Chairman.

Mrs. FOWLER. Mr. Chairman, could I just state that my bill also provides for just 8 consecutive years, so you could come back.

Mr. CANADY. Thank you very much. Mr. Hoke.

Mr. HOKE. Thank you, Mr. Chairman.

I want to make a couple of observations, then ask a questions.

It seems to me that the point that is missed in this extraordinarily eloquent plea with respect to the expertise that is gained and the passion with which Members that have been here a longer time, bring to their job, is the question: "What are the real essential features of—what are the characteristics that are so necessary that are really critically important to being a good Member of Congress?"

It seems to me that at the top of the list has got to be good judgment, good sound judgment, common sense, a deep and abiding patriotism, and truthfulness, integrity, and character, so that the public can trust that person. But these things do not come about as a result of being in Congress for a year or 2 or 20 or 30. These are characteristics which may or may not be present in junior Members as well as in senior Members, and this idea that we need a professional expertise in order to do this job properly, I think, is completely ill-founded.

If that were the case, then we would do here what we do in many cities now, we hire a professional city manager who knows much better the business aspects of running a city and knows a little bit more about procurement and knows more about labor relations and things like that, and that is not what the purpose of Members of Congress is. And I would say to anybody who thinks that somehow we gain greater—that we gain these qualities more and more the longer that we are here—that that flies in the face of experience, if you do a survey, and that it also flies in the face of a common sense test because good judgment doesn't grow.

The one thing that might grow is perhaps political judgment, but I don't know that that is really what the people want or that that is such a good thing. What we need is common sense and good real judgment, private sector judgment, and I don't think that those things grow as a result of being here longer.

I wanted to talk to Mr. Peterson, if I could, and ask you specifically about your idea about a 4-year term because this is something I have thought about a great deal. I am very interested in it. And I sponsored a bill in the last Congress that would have changed the length of the term from 2 years to 4 years by constitutional amendment and then limited us to three 4-year terms with the one caveat that if you were holding a Federal office, you could not run for another, and that is the one thing—have you got that bill, also?

Mr. THORNTON. That is mine.

Mr. HOKE. Anyway, my question is this: You know, the critics say, well, the Founding Fathers wanted a 2-year term so that the people could yank the Members back, and I wonder what your responses are to that specific attack.

Mr. PETERSON. Well, technology, transportation, the communication and just the very fact that we can get back and forth to our districts with such frequency as we do really negate the arguments that the Founding Fathers had for the 2-year term. They wanted us to be the people's House, and they wanted to ensure that people went back to their districts on at least every 2 years. With the horse and buggy, that was quite a challenge.

You will probably be on an airplane tonight. You are probably on an airplane every weekend as I am, you have faxes, you have teleconferences, you have every kind of video, you have all of these connections with your constituents that the Founding Fathers never could have even dreamed of, and so now to look at this and to suggest that the whole process is the same and that we can do everything we are obligated to do in 2 years, that is to say find out where our interests are and where we can serve our constituents best in our 2 years, and then at the same time do that really not in 2 years but 1 year because the second year is set to almost a totality of raising money and of running for reelection, so the idea is to move this thing along and to make sure that you are spending your time on your real work of being a legislator now and you are not negating your responsibilities to your constituents, but the bill that my friend Ray Thornton has from Arkansas actually takes mine just a little bit further, and in fact I am a cosponsor of his, as well.

Mr. CANADY. The gentleman's time has expired. I want to thank each member of the panel for being here. You have been very patient, and we appreciate your taking time to be with us today.

Thank you.

Now I would like to ask the members of our next panel who have been waiting very patiently to come forward and be seated.

I am very pleased that we have two Members of the U.S. Senate with us today. We will hear first from the Honorable Fred Thompson, the newly-elected Senator from Tennessee, who is the leading sponsor of term limits in the Senate.

Next we will hear from the Honorable Mitch McConnell, Senator from Kentucky, who has introduced a resolution in the Senate to repeal the 22d amendment to the Constitution, thereby eliminating the limit on Presidential terms.

We are very grateful that each of you can be with us today. Thank you.

Senator Thompson.

STATEMENT OF HON. FRED THOMPSON, A SENATOR IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. THOMPSON. Thank you, Mr. Chairman.

I appreciate the opportunity to be here and to be with my distinguished colleague who I have looked up to for many years, and I guess the division on our side of the aisle is hopefully indicative of division on the other side of the aisle, and this is a bipartisan effort I think on each side, and I think it is a fundamental debate that has been going on in this country for sometime now, but I think it is going to be crystallized this year.

I think there are very good arguments on either side of the issue, and I think it is time that we faced up to it as a body, as a Congress, and resolved it, this year. I think it is important to note as far as I am concerned what this is not about.

I listened here to the very eloquent statements made from the witnesses and the Members, and there is validity to almost all of them. I am not going to be able to add anything to the storehouse of knowledge that these Members have in terms of background, factual detail, argument one side or the other, you have heard them all, we have all heard them all.

I am just going to kind of give you my perspective on it as someone who ran for political office for the first time last year, and my political career has a duration of less than 60 days at this point. It is not about denigrating the Congress of the United States. I don't think it makes a whole lot of sense to go through what you have got to go through to get here to become a member of a body that you want to help tear down.

I think just the contrary. I would like to think that this effort on behalf of term limits would assist in doing what George Will titled his book about term limits, and that is "Restoration," restoring the people's branch of government to the esteem that it rightfully ought to have in this country and what it does not have now, in my opinion. I think also it is not about individual Members of Congress.

I sit here very proud of the fact that I can call Howard Baker my mentor. If there is one person in my professional life who has

had more impact on me than Howard Baker, I can't think of it. He served three terms in the Senate. He is a person of the Congress. Both his parents served in the U.S. Congress. His father-in-law was Everett Dirksen, he served three terms, the majority leader.

I would not like to have seen his career cut short. I would like to still see him in the Senate, although it would mean that I would not be here because I have the privilege of having the same seat that he had, but it is not about individual Members. For every individual Member that we can talk about who is loyal, trustworthy and true, and has fought the good fights against deficits and what not, we can come up with a list of people that don't fit that category.

It is not about that, it is about a system. And I think it is important that we let a little air out of this balloon and get back away from it and understand that it has nothing to do with personalities, it has to do with what kind of system that we are going to go forward with in this country. I think a good argument can be made that the system that we have now for the most part in this country has served us pretty well.

However, I think times are changing. I think times are different now. Everybody over on the Senate side this last week—we are debating the balanced budget amendment over there—is quoting Thomas Jefferson. Thomas Jefferson has been trotted out about every 10, 15 minutes over there, and I am going to trot him out here today because it is one I haven't heard yet that I ran across that I think is apropos to that point.

It says "each generation has a right to choose for itself the form of government it believes most promotive of its own happiness. A solemn opportunity of doing this every 19 or 20 years should be provided by the Constitution." That is 1816 when he said that.

If Thomas Jefferson thought that something much more fundamental than what we are talking about here today in terms of term limits was appropriate, I think it not inappropriate at all for us to come forth and say, look, different circumstances for different times. The different circumstances are there is an unprecedented cynicism among the people.

Congress is not held in high regard by the American people, to say the least. If we have been doing all these wonderful things, why is that so?

No. 2, we have got a debt that is strangling us. A lot of good people have done a lot of good things. The bottom line is we are looking at a \$5 trillion debt, we are looking at deficits that are going to skyrocket after the next Presidential election.

The Bipartisan Commission on Taxation and Entitlements informs us we are going to run out of money in the year 2012, we are not going to have any money for national defense, infrastructure, education, research and development or anything else. These are serious situations. If we had been doing so well for so long by so many, why do we find ourselves in this situation? I think that the change that we are talking about today has to do with that because the root problem is careerism. I don't—and I will stop if I am supposed to here.

Mr. CANADY. You can conclude briefly.

Mr. THOMPSON. I think it is a very good point. Careerism to me is not an all negative reference. I had a career, too, before I did what I am doing now, and other people have done other things, it is not a negative type thing, but to me anyway we should not place too much importance on technical knowledge and personal experience. That might sound a little strange to say because obviously the smarter you are and the more knowledge you have got and the more experience you have, all other things being equal is good, but what we have been suffering from in my opinion in the U.S. Congress for several years now is not a lack of manpower, it is not a lack of brain power, it is not a lack of experience, it is a lack of willpower, it is a lack of willpower.

Now where is that willpower going to come from? From people whose total life is devoted to winning that next election? Great exceptions we can talk about them, many of them are in this room today.

Or is it going to be provided by some person who comes into the system knowing from day one he can't stay, before long he is going to have to go back? It has to do not just with the motivation of people in Congress. It has to do with the motivation of people thinking about running for Congress and the attitude they bring in with them.

I will cease and desist here now. I have run over my time, and I will defer to my respected colleague.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. FRED THOMPSON, A SENATOR IN CONGRESS FROM
THE STATE OF TENNESSEE

Mr. Chairman. I, along with Senator Ashcroft, have introduced a bill to impose term limits on Members of Congress. This legislation will limit Members of the Senate to two terms and it will limit Members of the House to three terms. The time has come to pass this legislation. It is needed and it has the overwhelming support of the American people. In fact, never has there been an idea so popular that has received so little attention by the United States Congress. It is because term limits does not have to do with spending other people's tax money or regulating other people's lives as is the case with most legislation coming out of Congress. This provision (term limits) hits much closer to home. It calls for sacrifice or at least adjustment in the lives of *ourselves*. At least, with regard to those in Congress who see the Congress as a permanent career. It is time that the Congress put aside the personal interest that individual Members might have and respond to the will of the people, the good of the country, as well as the good of Congress as an institution.

Because term limits is not about punishing Congress or denigrating the institution of Congress, although it has come to the point where many in our society would love to do so. On the contrary. Term limits would strengthen and elevate Congress in the eyes of the American people at a time when it is most needed. Today people feel alienated from their government and have concluded that Congress does not have the will to deal with the tough challenges that face this country in the future. And who can disagree with that notion. Yesterday we passed out of the Judiciary Committee a balanced budget amendment to the Constitution. I have concluded, as I think most others have, that passage of a balanced budget amendment is absolutely necessary if we are going to avoid bankrupting the next generation. The reason is that Congress doesn't have the political will to do what we all know is necessary. Therefore, we must resort to the straitjacket of a balanced budget amendment. It is a reflection upon us and upon our current system that such a straitjacket is needed. But Constitutional amendments with regard to specific matters cannot indefinitely save us from ourselves. We must start developing the will that is necessary to face tough issues. To me that means that we must have more people coming into the system who view service in the United States Congress not as permanent career but as an *interruption* to a career. I believe that term limits would more likely produce individuals who would take on the tough challenges, since their careers would not be at stake every time they did so. It would also draw them into

the system and encourage more citizens to run for office since they would not automatically face the difficult up-hill struggle of running against a well entrenched, well-financed incumbent.

There have been many Members who have served much longer than the limitations of this legislation would allow. A case can be made for the proposition that up until recently our current system has served us pretty well. There is no need to argue that point. However, different times and different circumstances require different measures. As the federal government has grown there has been a proliferation of special interest groups each with their demand on the Treasury and each holding a carrot and a stick for every Member of Congress. The carrot is political and financial support. And the stick is mobilizing of their forces in order to try to end a Member's career. So every time a Member takes a tough stand for the benefit of those yet unborn, who do not have votes, his career is on the line. For a Member whose entire future is based upon indefinite continued service, these forces are too often overwhelming. So we now have a \$5 trillion debt and a deficit that will start to skyrocket again in 1998. Apparently, we have decided to let our children and grandchildren make the tough choices. That's not being responsible. Surely, we are better than that. We owe it to them to take the measures necessary to give us the best chance of putting ourselves in the position to deal with such problems. That is why we need term limits and I urge my colleagues support.

Now that I have discussed the urgent need for term limits, I'd like to briefly discuss why I have introduced legislation that would limit terms of House Members to three terms and Members of the Senate to two terms. We have heard and will hear additional testimony on different term limit proposals. I am pleased that most of us agree on the principle. That is truly encouraging.

After spending months listening to my fellow Tennesseans and the positive response I have seen around the nation wherever term limits has appeared on the ballot, I am convinced that the American public is demanding that we return Congress to the citizen legislature that our founding fathers envisioned.

In each state that has had the opportunity to vote on term limits, citizens have overwhelmingly endorsed the idea. Twenty-two states have passed term limit initiatives. Of those states, fifteen of them have passed term limits that reflect the legislation that Senator Ashcroft and I have just introduced. That's fifteen million Americans. Fifteen million Americans who have already voted in favor of the 3-2 legislation.

I have heard arguments that the results of the 1994 congressional elections suggest that maybe there isn't a need for term limits now. I disagree. Ninety-one percent of House members who sought re-election in 1994 were returned to office last November. Despite the amount of new Members in Congress this year, incumbents are still heavily padded with what could be called an "incumbency protection plan." Limiting House Members to six terms, instead of three terms as I have proposed, would leave the seniority system intact and do little to level a playing field that has huge advantages for incumbents.

I'd like to thank the panel for the opportunity to testify here before you and I'd like to thank all witnesses who have taken time from their busy schedules to be here today to give their testimony on this very important issue.

Mr. CANADY. Thank you, Senator.
Senator McConnell.

STATEMENT OF HON. MITCH McCONNELL, A SENATOR IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. McCONNELL. Thank you, Senator.

I appreciate the opportunity to be here with my friend Fred Thompson, again. Maybe a good way to lead off would be on the point he made about careerism. In fact, careerism is not pervasive here.

Just looking at my yellow card notes here, the average House Member has been here 7½ years, and the average Senator, 10 years. And of course, as has been expressed throughout the morning, over half the House has come in since 1990.

In fact, what we are seeing around us is that democracy is alive and well in this country. In 1994, the vital signs were certainly strong, campaign spending increased, voter turnout increased, and

the number of candidates, particularly on the Republican side—I say with some degree of pride—has increased incredibly.

Even congressional approval ratings are going up. They have gone up 20 points since October, leading some of us to believe the voters might actually have been proud of bringing about all this change, which they are permitted to do at the ballot box.

Mr. Chairman, the problem with term limits abound. They would vest increased power in the unelected staff, bureaucrats, the judiciary, and the lobbyists. So let me first suggest if we are going to go down this road and grant the assumption that somehow learning more about something creates a disability of sorts, then it shouldn't apply just to those members of the Government who can be replaced every 2 years at the polls.

I think if the notion that somehow learning more about government creates a disability, then what we ought to be talking about is term limits for the judiciary, for the staff, and for regular Government employees. If there is just something about serving in government that messes you up somehow, then let's go after the Government employees who cannot be replaced.

Members can be replaced every 2 years, and we have seen that done dramatically in recent years. If there is something about government service that sort of messes with your mind, then let's get after all those Government employees who have lifetime tenure or are protected by the merit system, those that cannot be replaced because those are the permanent Government employees, not us. Not us. We are here only as long as the voters will allow us to be here.

Frankly, I think it is nonsense to contend that Congress is the only workplace in America where experience is a bad thing. Experience didn't seem to impair Henry Clay or John Sherman Cooper in my State or Howard Baker—Fred referred to our friend Howard Baker—or Everett Dirksen, Mr. Hyde, or Sam Rayburn or Arthur Vandenburg or Sam Ervin or Newt Gingrich or Bob Dole.

I wish Mr. Inglis was here. What about Strom Thurmond? What about Strom Thurmond? Was that a mistake? Should Strom have left back in the 1960's? The people of South Carolina obviously didn't think that, they have been sending him back overwhelmingly.

I wonder have they just not figured out something here? In fact, what term limits would do is engender a new elitism as younger prospective Members would not interrupt private pursuits for a public service career certain to be short circuited, and the few who came here would spend most of their time looking for a job, which raises very interesting ethical questions about what they would be doing with their time around here, knowing that they couldn't be here very long. In fact, I think the people most likely to come here would be older and richer people who could dabble in politics without fear of leaving their families in the lurch when the term limit kicks in. Or, as Congresswoman Schroeder referred to, they would kind of hopscotch from one kind of political job to another and sort of turn it into perpetual careerism that way.

If the goal is to make Congress older, wiser and richer, why don't we consider raising the minimum age? Some look longingly back to the previous century. Consider that when the current minimum

age requirement—25 for the House and 30 for the Senate—was set that average life expectancy was 34.

Life expectancy has more than doubled in the last 200 years, so maybe the minimum ages to serve in the House and Senate should be adjusted accordingly, and, of course, made retroactive. Someone probably could make an argument that the problem is not that the Members are here too long, but that they arrive too young.

Now, of course, I jest, but not entirely. In hindsight, among the most interesting observations made by the term limit supporters 200 years ago was that the Federal City would be an Eden from which Members would be reluctant to leave.

Obviously, they didn't envision a crime-, pothole-, debt-ridden Washington which on the front page of today's Washington Post is crying out for relief. D.C. is hardly the Eden that proponents of term limits 200 years ago were. Now, I don't want to prolong this, but I do want to mention one other thing.

A man with whom I frequently agree is George Will. As many of us know, George Will has decided to make this a crusade, but his argument, interestingly enough, is totally different from the argument of most of the term limits supporters. They have said we need term limits so we keep Members in touch. In touch. George Will says: "My aim with term limits is not to make Congress closer to the people, but to establish a constitutional distance. . . ." So he is making the argument that we really need to be removed from all these sort of unseemly influences that our constituents have on us as we go out there and have to compete for these offices. George Will thinks term limits is a great idea because it is going to put distance between ourselves and our constituents.

Others are saying term limits are a great idea because it is going to keep us in touch. I am thoroughly confused about this myself, having listened to these conflicting arguments. It seems to me clearly the voters have the power to limit our terms. The voters have the power to bring about turnover in a dramatic fashion, and if there has ever been a time in history in which they have demonstrated that clearly and conclusively, it has been in recent years.

Thank you, Mr. Chairman.

I would just like to ask unanimous consent that my whole statement be made a part of the record.

[The prepared statement of Mr. McConnell follows:]

PREPARED STATEMENT OF HON. MITCH MCCONNELL, A SENATOR IN CONGRESS FROM
THE STATE OF KENTUCKY

U.S. Senator
MITCH MCCONNELL

February 3, 1995

TERM LIMITS

(Testimony before the House Subcommittee on Constitution)

MR. CHAIRMAN, Members of the Subcommittee, thank you for allowing me to come before you today to weigh in against term limits.

Some of you may be aware of my history as an impediment to Democratic electoral so-called "reform" efforts. In fact, according to then-Majority Leader Mitchell, the campaign finance filibuster I led last fall was unprecedented in the history of the Senate. And, I am pleased to note, it was successful.

Today I come before you, as a Republican, to oppose an alleged "reform" driven primarily by Republicans.

There is a fundamental similarity between the signature Democratic and Republican electoral "reform" proposals and that is that both proposals -- campaign spending limits and term limits -- would put distance between Americans and their government.

Both would take from citizens the right to support candidates of their choosing -- one by barring the giving of private campaign contributions. The other by barring the giving of a vote.

Both proposals restrict freedom. Both suppose problems which do not exist. Both are popular. Both are wrong.

The fact is, careerism is not pervasive. Those who view perpetual reelection as a cancer on the body politic and term limits as the cure should reconsider. It's already in remission.

Over half of the House of Representatives has been elected since 1990. In the Senate, fifty-five members have been elected since 1984, twenty-eight of those since 1990. Clearly, terms are being limited without term limits.

The fact is, voters already have the power to limit terms and are selectively doing so -- at the ballot box.

Democracy is alive and well in America. In 1984, its vital signs were strong: campaign spending increased and voter turnout increased, and the number of candidates in recent elections has increased.

Congressional approval ratings have even increased since the November elections. According to the Washington Post-ABC News poll this week, the congressional approval rating has doubled since October.

Mr. Chairman, the problems with term limits abound. They would vest increased power in unelected staff, bureaucrats, the Judiciary and lobbyists. So if we are going to go down this road, perhaps the scope of term limits ought to be expanded.

It is wrong to contend that Congress is the only workplace in America where experience is a bad thing. But that is implicit in the term limit movement. There should be no question but that, good intentions aside, there is a steep learning curve in terms of procedure, precedent, and issues.

Experience certainly did not impair Henry Clay, John Sherman, Cooper, Howard Baker, Everett Dirksen, Sam Rayburn, Arthur Vandenberg, and Sam Ervin's commitment to serve the national interest. Under term limits, we would not see their like again.

Term limits could engender a new elitism as younger prospective Members would not interrupt private pursuits for a public service career certain to be short-circuited. And those who did ventur-

such a detour would have to fight a human impulse to keep an eye on future employment potential -- a conflict rife with ethical implications.

That would leave those independently wealthy enough, or old enough, to debilitate in politics without fear of leaving their families in a lurch when the term limit kicks them out.

If the goal is to make the Congress older, wiser and richer we could just raise the minimum age requirements. After all, when they were set at 25 for the House and 30 for the Senate, the average life expectancy in the country was 34. Life expectancy has more than doubled in the last two hundred years so maybe the minimum ages to serve in the House and Senate should be adjusted accordingly -- and made retroactive.

Someone probably could make an argument that the problem is not that members are here too long but that they arrived too young.

In hindsight, among the most interesting observations made by term limit supporters two hundred years ago was that they were necessary because the Federal City would be an "Eden" from which Members and their families could not bear to part.

The reality hardly needs elaborating.

Mr. Chairman, of great concern to me, as a Senator from Kentucky, is the transference of power from small and medium-sized states to large population states. This is certain to occur under term limits. It is a given that as Senate seniority is negated, populous states with large House delegations will gain in power. Conversely, the voices of constituents in smaller states -- currently

amplified by the Senate's seniority system — would be muted.

So why term limits? The leading organizations advancing them speak of the need for "citizen" legislators. More open contests, more candidates, more choices. They lambaste an imperial Congress "out of touch" with voters.

It is interesting to note that political commentator George Will, a noted convert to term limits, has a different take on them. George Will believes term limits would put an additional buffer up between Congress and the people. He has stated that:

"My aim with term limits is not to make Congress closer to the people, but to establish a constitutional distance..."

Mr. Chairman, House and Senate Republicans have opposed campaign finance bills in large part because those proposals would have put "distance" between Americans and their government.

Upon being informed that term limits would further insulate Congress from citizens I doubt the public would find them so appealing.

We find ourselves in a situation reminiscent of 1947 when a Republican majority — fresh from political exile — erred in passing the 22nd Amendment imposing presidential term limits. Fifty years ago, the Republican haste was in response to the unprecedented tenure of President Franklin Delano Roosevelt. Not one Republican in the House or Senate voted against that proposal. Ironically, perhaps poetically, the only Presidents since limited by it have been Dwight D. Eisenhower and Ronald Reagan. The 22nd Amendment was a mistake, it should be repealed and I have introduced Senate Joint Resolution 23 to do just that.

The new Republican majority of 1995 would greatly compound that error in passing a Constitutional Amendment to limit congressional terms. Yet, here we are. A Republican majority. And just like fifty years ago, our party is rushing headlong into term limits.

The difference this time around is that the term limit proposals are in response to the long Democratic hold on Congress.

The Supreme Court will be deciding this year whether states themselves can impose term limits on Congress. The question before us will be whether congressional term limits should be imposed.

The answer, in a word, is: no.

There are those who believe the question before us is not the merits of term limits but whether we should allow a state-by-state determination. They say that popularity itself demands that we buck the question to the states.

I would caution members that if popularity is to be the sole criteria in determining what constitutional amendments we pass then perhaps we should consider one to ban all Federal taxes. We could just convene a hearing of pollsters to tell us what Constitutional Amendments would be popular. And we could pass them. The possibilities boggle the mind.

It should go without saying that we have a responsibility to judge the merits, risks and ramifications of proposed constitutional amendments. And we should be mindful that if a congressional term limit amendment were ratified and proved to be a debacle it would be nearly impossible to repeal.

Only one Constitutional Amendment — the 18th imposing prohibition — has ever been repealed. Needless to say, the lure of liquor was far greater than that of politicians ever has been — even the good ones.

I will leave you with an excerpt from Alexander Hamilton's Federalist Paper #72 — which presented the case against Presidential term limits and presents a convincing case against congressional limits:

"There is an excess of refinement in the idea of disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive."

Mr. CANADY. Your remarks, as well as the remarks of all the other witnesses, will be put in the record in their entirety.

Again, thank you for being here. I have no questions. I am going to dispense with that.

Are there any Members that feel a burning need to ask questions?

Mr. HYDE. I have a burning need just to make a couple of comments.

Mr. CANADY. Chairman Hyde.

Mr. HYDE. I was most interested in Senator Thompson's quoting Jefferson about each generation has the right to choose. That is exactly right, the right to choose, and how and who in the hell are we to circumscribe the right to choose by eliminating people from the calculus? You may vote for these people, citizens, but you may not vote for this person; he hasn't committed a crime, he is a citizen, but he has served too long, and he has had too much experience. That erodes, that negates the right to choose.

Now, the consent of the governed is what this country is all about. It isn't that Strom Thurmond is smarter than Arlen Specter, although I tend to think so, but that is a personal opinion, but in any event I simply say who is to decide who will represent the people of South Carolina? Do you?

Do I have the right to say pick and choose and by formula you may not vote for this person? Would you—I shouldn't say this, but it illustrates what I am trying to say.

Would we deny the people of West Virginia the right to choose Robert Byrd to represent them? He does an awfully good job for his people. Too good a job I think we all think, but he sure is their tiger.

He does a job, and should we say uh-uh-uh, get someone else now, he knows too much, he knows the rules, he knows how to debate, he knows how to get things for his people? Out. Mr. Byrd, nice knowing you.

That is nonsense. When Mr. Truman in August 1945 had to decide shall we drop the nuclear bomb on Nagasaki and Hiroshima, my God, I don't know who he got advice from, but I hope they were careerists, they knew history, they knew weapons systems, they knew Japan, they knew the world, they knew life. I hope they were people of experience.

The gentleman from——

Mr. MCCONNELL. Mr. Chairman, I don't want to interrupt you, I agree with everything you are saying. I want to make one other observation, if I could.

I know everybody wants to go to lunch. But the reason I introduced an amendment, a resolution to repeal the 22d amendment, is because I always thought that the 22d amendment was a bad idea and so did Ronald Reagan, by the way, who also opposes congressional term limits.

A little history very quickly would be in order. The last time we had a Democratic President and a Republican Congress was 1947 and 1948. Franklin Roosevelt drove my party insane, he was so successful, and so we came in and we got control of that Congress and the first thing we did was pass the 22d amendment. The only

problem was Roosevelt had been dead for over a year, so I guess he didn't feel the punishment.

So we passed the 22d amendment, limiting Presidents to two terms, and ironically there hasn't been a Democrat elected since who has been inhibited by that. Not one. And only two Presidents—Dwight Eisenhower and Ronald Reagan—finished two terms and could have chosen to run for a third. Talk about the law of unintended consequences.

And what is going on here in my judgment, even though obviously if you ask people if they are in favor of term limits, they are in favor of term limits. If you ask people if they would like to repeal the Bill of Rights—but don't phrase it that way—I have seen surveys that say people think we ought to repeal the Bill of Rights.

Should we be repealing the Bill of Rights? Of course not. I will bet you people are in favor of no taxes. Somebody made reference to that.

Should we pass an amendment saying there won't be any taxes? I think what is going on here, and I don't want to demean the proponents of term limits, many of them are very sincere, but I think at the heart of this is Republican frustration of 40 years of Democratic control of Congress of the House of Representatives. We won, we won; who do we want to punish now? The voters spoke.

I am sorry, Mr. Chairman.

Mr. HYDE. No.

Mr. THOMPSON. Could I address it, Congressman, also?

Mr. HYDE. Sure. Just let me ask this one kind of rhetorical question. What in the heck is so conservative about rejecting the past and experience? What is so—why do conservatives buy into the new is better, new is less corrupt? I have trouble with that as an old paleo-conservative.

Mr. MCCONNELL. And a constitutional amendment is likely to be forever. Only one constitutional amendment has been repealed, and that was the one that dealt with liquor. My suspicion is the voters would miss their liquor a lot more than they would miss us.

Mr. HYDE. I ask unanimous consent for an additional minute so Senator Thompson can respond.

Mr. THOMPSON. Thank you. Of course, in the first place, this has nothing to do with who has won or not won the White House, and again it has nothing to do with individual Members. It has to do with our system of government as we go forward into the next century with tremendous, tremendous problems that we are not facing up to. Nobody has told me yet how we are going to keep from bankrupting the next generation. Say, well, we just muster up the will, like we have done it for the last 30 or 40 years. It is not going to happen.

Those of us who are for term limits, many of us anyway, it is not because of Republican frustration, I didn't wait this long and work this hard to get up here to fight some little nitpicking partisan battle. This has to do with the operation of this country and whether or not we are going to have the people coming into government who will have the willpower to do what is necessary.

Getting back to Thomas Jefferson, Congressman Hyde's comment, Thomas Jefferson was talking about freedom to choose, but he was talking about freedom to choose to alter the Constitution.

The Constitution is a document of limitations. The Bill of Rights is a list of limitations that we willingly place on ourselves. This Congress, United States, by an overwhelming majority cannot restrict a person's freedom of speech. It starts out Congress shall make no law, that is a limitation, that is a restriction.

If 200 million people in this country want to restrict this gentleman's freedom of speech, they can't do it. It doesn't matter, that is a limitation. As long as we are talking about choice, what about the overwhelming choice that so many States have made to limit their members? They say, well, they could do it at the ballot box. Let's get real. Everybody talks about truth in advertising around here.

We have got a system now that if you are not individually wealthy or a career politician, you have a very, very difficult time of breaking into the system. Most people don't bother. So, yeah, people have a choice, but a choice from what? Usually a choice between two professional politicians or a professional politician and someone who can put millions of dollars into his own campaign.

Mr. HYDE. If I may just very briefly with great respect, Senator Thompson, I view you as one of the really great assets and ornaments of our party.

Mr. THOMPSON. As I do you, Congressman, you know.

Mr. HYDE. Thank you. I would just say the Constitution is not a limitation, it is an affirmation of powers of the Federal Government, and everything else that isn't given to the Government is reserved to the people. It is the Bill of Rights that is a limitation, but the Constitution itself is just the opposite; it is setting out what the powers and rights of the Government are, and again—well, thank you very much. This has been very illuminating.

Mr. THOMPSON. Thank you.

Mr. CANADY. Any other Members wishing to ask questions?

Mrs. SCHROEDER. Could I just make one comment.

Mr. WATT. Are you not recognizing people in the order that—

Mr. CANADY. Well, if you wish to be recognized, you may be recognized. Do you wish to be recognized?

Mr. WATT. I just assumed that you were going down the row, Mr. Chairman.

Mr. CANADY. Maybe you weren't here when we earlier—when I asked if there were—

Mr. WATT. I have been here every moment except the very beginning unless you set some ground rules that I wasn't aware of early.

Mr. CANADY. Mr. Watt, you are recognized.

Mr. WATT. Thank you. I appreciate your recognizing me. I really don't know that I can get these gentlemen to add—I just want to say that I think both gentlemen did a wonderful job of outlining their sides, and I won't try to interfere with that, and both of you were very edifying.

Thank you.

Mr. CANADY. Mrs. Schroeder.

Mrs. SCHROEDER. I did have just one comment, and I wanted to thank Senator McConnell for making the point about people could also be abusing this office for looking for another career rather than another office to run for, and when you think about the long history of what we have been doing in this country trying to do the

revolving door and all those other things where we have seen violations, especially in the Defense Department as people are going out trying to find out what kind of favor they can do to get themselves a job the next time around, I think people ought to be very, very cautious of that, and I also think that there are some real legitimate problems that people are concerned about that the average person can't run, but I think you deal with that by dealing with campaign finance reform.

I have always been proud that my average campaign contribution, including PAC money, is \$37.50, and so—that is pretty high, I know, I am not worth it, but I think that is really some of where we should be going, but I do think, I hadn't thought about that, but I thought your point was very well taken about people then using the job to find out what kind of a next job they could get.

Mr. McCONNELL. I think it is an absolute certainty, an absolute certainty. Unless the person who comes here is already quite well-to-do and simply doesn't have to worry about what to do next, they are going to spend a substantial part of that time trying to figure out what they are going to do next and how they are going to feed their family. I think that raises a lot of very potential and quite serious ethical concerns.

Mrs. SCHROEDER. And I suppose the only way around that would be to either have celibacy for public servants or make sure they were all millionaires and didn't need to worry about it. Either one I think is probably not the way we want to go.

Thank you.

Mr. CANADY. Mr. Conyers.

Mr. CONYERS. Thank you very much.

I have been between committees this morning, but I wanted to express my real pleasure at, first of all, us having these hearings and having so many distinguished witnesses as have graced the Judiciary Committee room today. The one good thing about hearing about term limitations is that it puts in context a lot of other subject matter, a lot of other issues that we might not have been getting at, and Mrs. Schroeder raised some.

We have been talking about—a much larger question is revealed when we start talking about whether or not to limit the terms, and I think for that reason alone these hearings are going to be very productive and I think they will cause a lot of thinking on the part of the American people because it is very easy to say let's limit Congress' terms or let's cut their salaries or let's do something, but when you start examining what the do something is, I think we go into this a lot deeper and in a much finer way, and I think that these hearings will prove very informative in shaping up the more complex issues that are behind this subject, and I thank you all very much.

Mr. CANADY. Senators, again thank you for being here. We appreciate your taking the time to testify.

Now I would like to ask that the members of the third panel please take their seats. There are four members on our third panel today. It is our next-to-the-last panel.

We will hear first from the Honorable Dennis DeConcini, the former U.S. Senator from Arizona, who retired last year. Senator DeConcini introduced term limits resolutions in every Congress in

which he served since 1977; Prof. Charles Kesler is the director of the Henry Salvatori Center at Claremont McKenna College, he is editor with William Buckley, Jr., of "Keeping the Tablets: Modern American Conservative Thought"; Mr. John Kester represented U.S. Term Limits in *U.S. Term Limits v. Thornton*—we had Mr. Thornton here earlier—the first U.S. Supreme Court case challenging the constitutionality of State-imposed congressional term limits; Mr. Thomas Mann is director of governmental studies at the Brookings Institution and a noted expert on the workings of Congress and has previously testified to this subcommittee on this very subject.

I want to thank each of you for being here. As with the other witnesses, your full statements will be placed in the record. I would encourage you to summarize your testimony as briefly as you can for us this afternoon.

First, I will recognize Senator DeConcini.

STATEMENT OF HON. DENNIS DECONCINI, FORMER U.S. SENATOR

Mr. DECONCINI. Mr. Chairman, thank you and members of this very distinguished body. I am very, very pleased and honored to be here.

This is not easy for me because I find myself at odds with many, many Democrats and some Republicans that I have had a very good working relationship with over many, many years, but I have supported term limits before I came to the Senate 18 years ago. It is not easy to support term limits, contrary to Mr. Conyers' recent statement.

It has been my experience that it is very difficult. It is scoffed at, it is ridiculed, even George Will criticized Senator Danforth and myself in 1977 when we introduced the first term limit of Members of the Senate and House. He since has been converted, and I am glad to see that. He is a friend of mine, and I respect him immensely.

The history of term limits I won't go into based on our Constitution, Thomas Jefferson, all the things that are constantly cited for reasons for doing it or the reasons for not doing it, let the people speak their will, they will limit our terms, which is true, they do. I elected to retire, but perhaps had I run again they would have limited my terms to three terms, and it is important that we understand why we are here today and why I believe this is an issue that is very likely to pass, certainly to get a vote on the floor, thanks to the leadership of Mr. Hyde, who opposes it, but believes in the process that people should have an opportunity to debate the issue and vote.

That hasn't occurred in the past, and I must say it has been the Democrats primarily who didn't want it to occur, so it didn't occur. I think it is a healthy thing even if this House and the Senate do not pass an amendment that amends the Constitution to limit the terms of the legislature that we debate it. That is what the process is about.

I find that the skepticism, cynicism of the public is far greater today than it was 18 years ago, but historically you find that Congress is not held in high esteem, whether it was during World War

II when our backs were up against the wall, the American public degraded the Congress. They blamed the Congress, they blamed it for the war, they blamed it for rationing, and that is the history of the Congress. But in all fairness, I believe today it is a worse problem than it was during World War II.

Though Senator McConnell pointed out that the Congress has risen slightly in respect most recently, I doubt whether that is going to stay, notwithstanding the good intentions of the new leadership on the Republican side in both Houses. It is not historically there.

What we have to do is reestablish and bring back the feeling of the public. Now will term limits do that?

I don't know for certain. I think they will. Why?

Because when you ask the American public if they think people serve too long, the answer is yes. Now, they don't know that the average term is 7 or 8 years in the House, but that is the feeling they have. Now, to me that is not a criticism of people who serve long terms here. I served 18 years with great pride, no apologies about it, and had I been able to be reelected, I would have served with pride for another 6 years, but it is true, in my opinion at least, that in my State there are many able people who can do as good a job as I did in 18 years.

Now, as a candidate I certainly wouldn't say that. I am not a candidate. I am now a former Senator. I am a citizen, a plain citizen without a title except what I once had, so it is important—and Arizona, by the way, had the longest, I believe, serving Member of Congress, 54 years, Carl Hayden, and he did wonderful things for our State and the Nation, but believe me, when he did retire, he had exhausted himself physically and mentally.

I do not degrade or take anything away from his achievements, but what was important is what many good leaders could have done; I believe, what Carl Hayden did for our State. I am glad I got a chance to do some of it. I am glad I was able to succeed him in a way.

We have to have more competition, and I think by limiting terms and people knowing what they are doing here and for how long, that is a positive step. This body, the majority in this body just has elected to limit the terms, I am told, of committee chairmen, I think that is a good idea.

When I came to the Senate I voted with John Culver and about six other Senators to do the same thing. We were scoffed at. What are you doing, you are upsetting the whole apple cart, let the system work. Well, the system really has not worked well. If you think it has, I respect your judgment, but I disagree with you. I don't think it has worked well.

I, for 18 years, pushed term limits, for 18 years pushed the balanced budget amendment, and we passed it in the Senate only to see it fail over here in the House, and we have not done the great job we put ourselves on the back for every time we go to the elections.

Let me just submit my entire statement plus some statements from a column that I wrote in the Washington Post refuting George Will's criticism of Senator Danforth and my amendment and a

statement by the Center From New West, a think tank in Denver, CO, that supports term limits. I hope the debate continues.

I think this hearing, Mr. Chairman, is very, very constructive to get that debate going, and I am sure that the American public will learn something. Maybe we won't pass limits or you won't, but I think it is very important that it get the opportunity to be debated and voted on.

Thank you, Mr. Chairman.

[The prepared statement of Mr. DeConcini follows:]

PREPARED STATEMENT OF HON. DENNIS DECONCINI, FORMER U.S. SENATOR

I WOULD LIKE TO THANK THE CHAIRMAN AND THIS COMMITTEE FOR INVITING ME TO PARTICIPATE IN THESE VERY IMPORTANT HEARINGS TODAY. I HAVE FOLLOWED THE ISSUE OF TERM LIMITS VERY CLOSELY FOR A NUMBER OF YEARS. DURING MY TENURE IN THE UNITED STATES SENATE, I INTRODUCED LEGISLATION TO LIMIT THE TERMS OF MEMBERS OF CONGRESS. ONE OF THE FIRST LEGISLATIVE EFFORTS TO LIMIT TERMS WAS DONE IN 1977 BY SENATOR JOHN DANFORTH (R-MISSOURI) AND MYSELF. IT DID NOT RECEIVE POPULAR SUPPORT AND WAS SCOFFED BY MANY AS UNREALISTIC AND UNNECESSARY. EVEN MY FRIEND AND VERY RESPECTED COLUMNIST, GEORGE WILL CRITICIZED OUR EFFORT TO LIMIT THE TERMS OF SENATORS AND MEMBERS OF THE HOUSE OF REPRESENTATIVES. THERE WAS GREAT OUTCRY FROM MANY RESPECTED AND NON-RESPECTED JOURNALIST CRITICIZING ANY EFFORT TO LIMIT TERMS OF MEMBERS OF CONGRESS. I AM ATTACHING, AS AN EXAMPLE, THE WASHINGTON POST ARTICLE OF DECEMBER 10, 1977, WHERE I RESPONDED TO GEORGE WILL'S ATTACK ON THE AMENDMENT INTRODUCED BY MYSELF AND SENATOR DANFORTH. THIS ARTICLE, I MIGHT SAY, THOUGH MORE THAN EIGHTEEN YEARS OLD STILL HOLDS, I BELIEVE, GOOD ARGUMENT AND RESPONSE TO THOSE WHO WOULD SCOFF AT LIMITING CONGRESSIONAL TERMS.

I CONTINUOUSLY INTRODUCED SUCH LEGISLATION. I DID SO BECAUSE I BELIEVED, AS I DO TODAY, THAT SUCH LEGISLATION IS NECESSARY IN ORDER TO RESTORE THE FUNDAMENTAL PRINCIPLES OF A REPRESENTATIVE GOVERNMENT. I TOOK CONTINUOUS PRIDE IN MY EFFORTS AND THAT OF SENATOR DANFORTH ON THIS QUESTION. SERVING ON THE JUDICIARY COMMITTEE AT THE TIME, I PERSUADED THEN SENATOR BIRCH BAYH (D-INDIANA) WHO WAS CHAIRMAN OF THE SUBCOMMITTEE ON THE CONSTITUTION, TO LET ME HOLD A HEARING ON THIS SUBJECT MATTER. WE HELD OUR FIRST HEARING IN LATE 1977. I MUST SAY THAT THERE WAS GREAT ENTHUSIASM FROM THOSE WHO TESTIFIED, BUT THERE WAS TREMENDOUS SKEPTICISM WITHIN THE COMMITTEE AND MANY WHO OBSERVED FROM CAPITOL HILL.

THE NOTION THAT FEDERAL TERMS SHOULD BE LIMITED IS BY NO MEANS NEW. DURING THE CONSTITUTIONAL CONVENTION IN 1787, THE FOUNDING FATHERS RAISED THE ISSUE OF SUCH A LIMITATION, BUT ELECTED NOT TO PURSUE THE SUBJECT FURTHER FOR FEAR OF "ENTERING INTO TOO MUCH DETAIL." ACCORDINGLY, IN THIS COUNTRY, FEDERAL OFFICE HOLDERS WERE NOT SUBJECT TO ANY LIMITATION, OTHER THAN THE VOTE OF THEIR CONSTITUENTS, UNTIL 1951 WHEN THE 22ND AMENDMENT WAS RATIFIED AND THE PRESIDENT WAS LIMITED TO TWO TERMS. I BELIEVE THE LIMITATION OF TERMS ON THE PRESIDENCY WAS THE CORRECT THING FOR THIS NATION TO ADOPT AND I BELIEVE IT HAS SERVED OUR COUNTRY WELL.

IT IS IMPORTANT TO NOTE THAT AT THE CONVENTION IN 1787, THE PREVAILING ATTITUDE WAS THAT THE PRESIDENT SHOULD BE ALLOWED TO SERVE INDEFINITELY. WHAT IS MOST IMPORTANT, IS THAT THOMAS JEFFERSON VOICED STRONG OPPOSITION TO INDEFINITE TENURE AS HE BELIEVED THE PRESIDENCY WOULD, IN EFFECT, BECOME AN INHERITANCE, WHICH WAS THE VERY FORM OF GOVERNMENT THE FOUNDERS SOUGHT TO ESCAPE.

DESPITE THE ABSENCE OF ANY EXPRESS LIMITATION ON THE EXECUTIVE BRANCH, PRIOR TO 1940, JEFFERSON'S CONCERNS WERE WELL TAKEN AND IT WAS A GENERALLY HELD BELIEF THAT THE PRESIDENT SHOULD SERVE NO MORE THAN TWO TERMS. OF COURSE, FRANKLIN ROOSEVELT PARTED WITH TRADITION AND WAS ELECTED TO AN UNPRECEDENTED FOUR TERMS AS PRESIDENT. IT WAS FOLLOWING MR. ROOSEVELT'S TENURE THAT CONGRESS PROPOSED THE 22ND AMENDMENT IN 1947. AT THIS TIME, THE NOTION THAT THE PRESIDENT SHOULD SERVE ONLY TWO TERMS WAS SO STRONG THAT PRESIDENT TRUMAN, WHO WAS EXEMPTED FROM THE 22ND AMENDMENT, DECLINED TO SEEK REELECTION IN 1952, AS WAS HIS RIGHT. TRUMAN HAD ONLY BEEN ELECTED TO THE WHITE HOUSE ONCE (IN 1948), ALTHOUGH HE SERVED THE MAJORITY OF ROOSEVELT'S FINAL TERM AS CHIEF EXECUTIVE. TRUMAN, WHO OPPOSED MAKING THE LIMITATION A CONSTITUTIONAL AMENDMENT, STATED HOWEVER, THAT THE TRADITION OF THE SELF-IMPOSED

PRESIDENTIAL LIMITATION MUST BE PRESERVED AND THAT WHEN THE LESSONS OF WASHINGTON, JEFFERSON AND ANDREW JACKSON ARE FORGOTTEN, "...THEN WE WILL START DOWN THE ROAD TO DICTATORSHIP AND RUIN."

WHILE THE POTENTIAL FOR A "QUASI MONARCHY" IS CLEARLY LESS LIKELY IN THE LEGISLATIVE BRANCH, AS OPPOSED TO THE EXECUTIVE, THE CONCERNS OVER INDEFINITE TENURE REMAIN. THE ABSENCE OF ANY CONGRESSIONAL LIMITATION HAS RESULTED IN REPRESENTATIVES AND SENATORS TURNING THEIR ELECTED TERMS INTO NEARLY INDEFINITE STAYS IN OFFICE. THIS IN ITSELF DOES NOT AND SHOULD NOT REFLECT ON MANY FINE MEMBERS OF BOTH CHAMBERS WHO HAVE SERVED MANY, MANY TERMS. IT IS NOT FOR THIS FORMER SENATOR AND NOW CITIZEN TO CRITICIZE THOSE WHO HAVE SERVED LONG TENURES IN THE HOUSE OF REPRESENTATIVES AND UNITED STATES SENATE. AS A MATTER OF FACT, MY STATE OF ARIZONA HAD, I BELIEVE, THE LONGEST SERVING MEMBER OF CONGRESS, SOME 54 YEARS IN CARL HADEN. HE INDEED DID WONDERFUL THINGS FOR ARIZONA AS WELL AS OUR NATION AS A WHOLE. NEVERTHELESS WITH THAT, IT MUST BE SAID THAT WHEN HE RETIRED HE INDEED HAD EXHAUSTED HIMSELF, PHYSICALLY AND MENTALLY. ALSO, MANY FINE YOUNG LEADERS, MEN AND WOMEN, WHO MIGHT HAVE BEEN ELECTED TO THE SENATE WERE LITERALLY SHUT OUT BECAUSE OF HIS LONG TENURE AND AT THAT TIME THE ABILITY TO USE

INCUMBENCY AS THE MOST SINGLE REASON TO REELECT SOMEONE TO NATIONAL PUBLIC OFFICE.

TERM LIMITS WOULD ADDRESS THIS PROBLEM AND ARE NEEDED TO RE-INJECT DEMOCRACY IN THE POLITICAL PROCESS AND THIS INSTITUTION. THE DEVELOPMENT OF A COMPREHENSIVE FEDERAL TERM LIMITATION WILL ASSURE THE AMERICAN PEOPLE OF A CONSISTENT INFLUX OF NEW MEMBERS WHO WILL BRING WITH THEM NEW IDEAS AND INNOVATIVE PLANS. A CONGRESS INVIGORATED BY FREQUENT INFUSIONS OF NEW BLOOD WOULD BE MORE RESPONSIVE, MORE DEMOCRATIC AND MORE FOCUSED ON SOLVING THE PROBLEMS FACING THIS COUNTRY. TERM LIMITS WOULD ASSURE A CONSISTENT AND SYSTEMATIC MEANS OF RENEWAL AND ROTATION OF MEMBERS AND WOULD ALLOW MORE CITIZENS THE OPPORTUNITY TO SERVE IN CONGRESS. I DO NOT BELIEVE THERE IS ANY SHORTAGE OF TALENT IN THIS COUNTRY FOR CANDIDATES WHO CAN BE RESPONSIVE AND EFFECTIVE MEMBERS OF THE CONGRESS OF THE UNITED STATES. GETTING ELECTED TO PUBLIC OFFICE DOES NOT REALLY MAKE ONE SUPERIOR OVER ANYONE ELSE. IN FACT, SO OFTEN THE ONE WHO SUCCEEDED, LITERALLY GOT MORE VOTES THAN THE OTHER AND THAT WAS THE DETERMINING FACTOR IN MANY CASES IN MY JUDGEMENT.

THIS INSTITUTION IS PREDICATED ON THE NOTION THAT THE PEOPLE SHOULD GOVERN THEMSELVES. IT WAS INTENDED TO BE A "CITIZEN LEGISLATURE" AND NOT THE SOLE PROVIDENCE OF ONLY A PRIVILEGED FEW. THROUGHOUT EVERY STATE IN THIS NATION, THERE ARE MYRIADS OF TALENTED MEN AND WOMEN, WHOSE SKILLS AND PERSPECTIVES WOULD BE BENEFICIAL, NOT ONLY TO THIS INSTITUTION, BUT TO THE ENTIRE NATION. LIMITING CONGRESSIONAL TERMS WOULD ENHANCE COMPETITION FOR MEMBERS AND INCREASE POLITICAL OPPORTUNITIES FOR MINORITIES AND WOMEN. IT MAY ALSO GIVE CONGRESS THE POLITICAL COURAGE NEEDED TO TAKE DIFFICULT POSITIONS ON CONTROVERSIAL ISSUES, LIKE OUR BUDGET DEFICIT. HOW MANY OTHER ISSUES HAVE MEMBERS OF THIS BODY HAD TO THINK, "WHAT WILL THIS DO TO MY NEXT ELECTION?" WHEN THEY WERE DECIDING HOW TO VOTE. IMAGINE IF CONGRESS WOULD SAY, "WELL, I ONLY HAVE ONE MORE TERM OR TWO MORE TERMS, THEN I WILL GO BACK TO MY STATE, GO BACK TO BEING AN ORDINARY CITIZEN, AND SO I CAN MAKE MY JUDGEMENTS MORE ON WHAT I REALLY FEEL." NOW, I KNOW WE ALL LIKE TO THINK THAT IS NOT HOW IT WORKS, BUT I BELIEVE IN OUR HEARTS WE KNOW OUR JUDGEMENTS ON HOW TO VOTE ON CERTAIN ISSUES CANNOT BE DIVORCED FROM THE NEXT ELECTION.

THE DESIRE TO HAVE THE LEGISLATURE RETURNED TO THE PEOPLE HAS FUELED OVERWHELMING PUBLIC SUPPORT FOR TERM LIMITS. POLLS

INDICATED THAT OVER 80% OF AMERICANS SUPPORT TERM LIMITS. 22 STATES HAVE UNILATERALLY PASSED TERM LIMITS AND OVER 30 STATES LIMIT THE TENURE OF THEIR GOVERNOR. MY STATE OF ARIZONA HAS ADOPTED TERM LIMITATIONS. IT WOULD CERTAINLY BE COUNTERPRODUCTIVE FOR ARIZONA TO LIMIT THE TERMS OF THEIR SENATORS AND HOUSE MEMBERS WHEN IN FACT OTHER STATES DID NOT. COMPOUNDING THAT, IS THE CONTINUATION OF THE SENIORITY SYSTEM GOVERNING APPOINTMENTS TO COMMITTEE AND CHAIRMANSIPS. THE NEW MAJORITY IN THE HOUSE OF REPRESENTATIVES, I BELIEVE, HAS TAKEN A POSITIVE POSITION IN LIMITING THE TERMS THAT MEMBERS MAY SERVE AS CHAIRMAN OF STANDING COMMITTEES. THIS IS A GOOD IDEA.

DESPITE THESE EFFORTS ON THE STATE LEVEL TO LIMIT TERMS, A CONSTITUTIONAL AMENDMENT IS NEEDED. THE CONSTITUTIONALITY OF THE STATE INITIATIVES REMAINS IN QUESTION. IN ADDITION, I BELIEVE ALL STATES SHOULD BE SUBJECT TO THE SAME LIMITS.

OBVIOUSLY TERM LIMITS ALONE ARE NOT THE ANSWER TO ALL THE PROBLEMS OUR GOVERNMENT CURRENTLY FACES. HOWEVER, GROWING VOTER APATHY IS UNDOUBTEDLY TIED TO THE PUBLIC'S FEELING OF BEING SHUT OUT OF THE WORKINGS OF THEIR GOVERNMENT. STEPS MUST BE TAKEN TO RECONNECT THE AMERICAN PEOPLE AND THEIR ELECTED

REPRESENTATIVES. TERM LIMITATIONS WOULD BE AN IMPORTANT STEP TOWARD RESTORING PUBLIC CONFIDENCE IN THE FEDERAL GOVERNMENT, RATHER THAN GOVERNMENT BEING THE TARGET OF THEIR RIDICULE AND SCORN. THIS COMMITTEE IS POISED TO TAKE A VERY CONSTRUCTIVE, POSITIVE STEP TO REASSURE THE AMERICAN PUBLIC THAT THE PEOPLE THEY SEND TO THE CONGRESS OF THE UNITED STATES ARE THEIR "SERVANTS" AND NOT THEIR TO SERVE THEMSELVES. NO AMENDMENT OR LAW WILL CHANGE FRAILTIES THAT MANY ELECTED OFFICIALS HAVE, BUT SUCH AN AMENDMENT THAT YOU ARE CONSIDERING TODAY WILL HAVE DRAMATIC EFFECTS IF IT IS ADOPTED BY BOTH HOUSES AND RATIFIED BY THE NECESSARY STATES; THE EFFECT WILL BE DRAMATIC, I PREDICT, AND WILL BE EXTREMELY POSITIVE FOR THIS COUNTRY AND IT'S CITIZENS.

MR. CHAIRMAN, THANK YOU FOR PERMITTING ME TO EXPRESS MY VIEWS AND I HAVE ADDITIONAL INFORMATION I WOULD LIKE TO LEAVE WITH THE COMMITTEE FOR THEIR CONSIDERATION.

Dennis DeConcini

The Case for the Citizen Legislator

With his usual flair and wit, George Will recently attacked a constitutional amendment introduced by Sen. John Danforth (R-Mo.) and me. The amendment, which would limit the number of terms representatives and senators could serve, was characterized by Will as the work of "bookies" who have "a lot to learn in a town where there is a lot to learn."

Obviously, Will's comments addressed themselves to the presidentialities of Washington

equal to those of a senator or representative—he might even be tempted to argue they are greater. After all, we demand of our Presidents that within a matter of months they put together an administration, develop a national policy, deal with international crises, serve as party leader and assure all the responsibilities of head of state. If the consequences of limiting the terms of senators and representatives are dire, as Will suggests, surely we should insist that the 22nd Amendment be repealed; perhaps we should insist that Presidents serve three, four or even five terms.

The legislature is the bar of the people. It should not be an elite group of professional decision-makers, removed by time, distance and experience from the people it serves and represents. To Will, the notion of a "citizen legislator" may be scary and naïve; to me, the growing reality of the "professional legislator" is frightening. It is yet another step away from the democratic ideal and another step toward rigid, unrepresentative institutions.

In an age when the universal complaint is the quality of our citizenry, we should be developing the institutional structure necessary to

provide more opportunities to participate meaningfully in the political process. The philosopher Rousseau observed that the degree of commitment an individual has to the rules that govern him is directly related to the extent of his participation in their formulation. The bonds of community presupposed by democratic order are rooted in this principle. As opportunities to participate decline, dissatisfaction and alienation grow; the authority

Taking Exception

of both public and private institutions without.

Limiting the terms of senators and representatives is no panacea for our social and political ills. But it may make our legislature more responsive and sensitive to our diverse interests. Ultimately, it is not the purpose of the legislature to develop the national consensus necessary for legitimate governing.

Broad and often unacknowledged power tends to accumulate to long-term survivors in the political arena. A limitation of terms would restrain in

growth. The framers of the Constitution were political realists who sought to create institutional barriers to protect against capricious exercise of power. And, thus, a limitation of terms fits that spirit. Furthermore, the framers did not intend that the vagaries of electoral politics should determine which states and which citizens benefit most from the federal system. Length of tenure goes hand-in-hand with the political pork barrel.

One final note: Re-election to office is often not vindication by the electorate. No astute observer of the contemporary political scene like Will is oblivious to the tremendous advantages of incumbency. Election breeds re-election. The result is an overemphasis on constituent service at the expense of policy-making. Too many representatives and senators see themselves not as architects of the political and policy consensus, but solely as combatants interacting with the ruling bureaucracy. Limiting terms forecloses making a career of the legislature; the over-riding concern for job security will be removed, creating a shift in attitude, orientation and priorities.

**ADDITIONAL TESTIMONY OF THE HONORABLE DENNIS DeCONCINI
IN SUPPORT OF FEDERAL TERM LIMITS LEGISLATION
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 3, 1995**

TERM LIMITS IS AN IDEA THAT'S BEEN KICKING AROUND SINCE THOMAS JEFFERSON'S TIME. I'VE BEEN ADVOCATING THEM SINCE 1977. BUT THE MODERN TERM LIMIT MOVEMENT GOT JUMP-STARTED IN THE WEST, IN THE FALL OF 1990 WHEN OKLAHOMA AND CALIFORNIA VOTED TO LIMIT THE TERMS OF THEIR STATE LEGISLATORS, AND COLORADO BECAME THE FIRST STATE IN THE UNION TO LIMIT THE TERMS OF BOTH ITS STATE LEGISLATORS AND ITS U.S. SENATORS AND REPRESENTATIVES.

I WAS DISCUSSING TERM LIMITS RECENTLY WITH PHIL BURGESS AND OTHER OF MY COLLEAGUES AT THE CENTER FOR THE NEW WEST, WHERE IT WAS MY PRIVILEGE TO SERVE AS A TRUSTEE. THE CENTER SUPPORTS TERM LIMITS AND OTHER POLITICAL REFORMS TO RELIMIT GOVERNMENT AND RESTORE BALANCE TO THE AMERICAN FEDERAL SYSTEM.

I WOULD LIKE TO INSERT A STATEMENT FROM PHIL BURGESS IN THE RECORD.

**STATEMENT OF DR. PHIL BURGESS
PRESIDENT AND CEO OF THE CENTER FOR THE NEW WEST
IN SUPPORT OF FEDERAL TERM LIMITS LEGISLATION
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 3, 1995**

The Center for the New West, a public policy think tank headquartered in Denver, supports term limits and other political reforms to relimit government and restore balance to the American federal system. The West has long been in the forefront of political reform. We owe the 17th and 19th amendments, in large part, to far-sighted, public-spirited Westerners. The first national convention of the Progressive Party was held in Omaha, Nebraska 103 years ago. Oregon was the first state to provide for direct election of Senators. Wyoming was the first state to give women the vote. In fact, the West accounts for the first woman governor (Nellie Taylor Ross, Wyoming in 1925), the first woman U.S. Representative (Jeanette Rankin, Montana in 1917), the first woman elected U.S. Senator (Nancy Kassebaum, Kansas in 1978), and the first woman to the U.S. Supreme Court (Sandra Day O'Connor, Arizona in 1981). As with term limits, these 19th-Century reforms and practices spread from West to East.

The West is the incubator of reform because our political institutions and rules of the game give power to the people. Examples: legislatures in most Western states are much stronger than the executive branch, and the West makes wide use of the initiative and referendum. Of the 23 states that permit voters to initiate legislation, 18 are west of the Mississippi. All have approved term limits, usually by margins approaching--and frequently exceeding--2 to 1. In 1990, Oklahoma and California started the modern term limit movement by voting to limit the terms of their state legislators, and Colorado became the first state to impose term limits on both state and federal legislators.

Term limitation promises leaders who come from the community and will return to the community; leaders who think beyond political self-perpetuation. It promises leaders whose instincts for what is right and wrong will replace polls and consultants; leaders who will raise their hands to vote yea or nay, not just to see which way the wind is blowing.

Mr. CANADY. Thank you, Senator.
Next Prof. Charles Kesler.

**STATEMENT OF CHARLES R. KESLER, DIRECTOR, HENRY
SALVATORI CENTER, CLAREMONT McKENNA COLLEGE**

Mr. KESLER. Thank you, Mr. Chairman.

The elections of 1994 ought to put to rest public anxiety about a permanent Congress. Now the case for term limits rests on two other, and I think dubious, propositions: first, that term limits are needed in order to make modern government democratic, that is more amenable to popular will through the substitution of citizen politicians for professionals; and second, that term limits are needed to limit the power and scope of government itself. I think neither proposition holds up under careful examination.

In the first place, the effect of term limits will not be to engender citizen-politicians but to breed a new species of itinerant professional politicians.

Regardless whether the terms are fixed at 6, 8, or 12 years, candidates for office would still be able to look forward to a long time away from a regular job. The persons most likely to be able to avail themselves of such a sojourn in politics would be lawyers, lobbyists, the independently wealthy, and career politicians who switch from one political office to another. The 6 to 12 years is, after all, a long time to be away from the family farm or the family business. Once in office, the neophyte legislator will be eligible for reelection two, three or as many as five more times and so must master the skills necessary to retain his office. This gauntlet will quickly beat the amateurism out of even the most determined nonprofessional. Besides, the political life is for all its hardships still exciting and alluring. It offers challenges and honors that cannot be found in private life, and those who are sufficiently moved to seek one office will usually be ready to seek another. But will term-limited legislators be more public-spirited than professionals?

Faced with what "The Federalist Papers" term his "approaching and inevitable annihilation," the legislator has little incentive, it seems to me, to make common cause with his party colleagues, to have a regard for the long-term health of this institution or even to keep faith with his constituents. In California, for example, voters helped inaugurate the term limits movement by passing proposition 140, mandating term limits for State assemblymen and senators, partly out of revulsion against business as usual in Sacramento, which means at least in part out of antipathy to inveterate Assembly Speaker Willie Brown. Last year the Republicans won a single seat majority in the assembly and seemed to be on the verge of ousting Brown as speaker. At the last moment, however, Brown pulled a rabbit out of his hat. The hare in question being Paul Horcher, a Republican assemblyman who renounced his party, declared himself an Independent, and promptly voted for Brown for speaker. To add insult to injury, Horcher had in the course of his just-concluded campaign frequently criticized Brown's autocratic habits. Why did Horcher risk this treacherous about-face? Horcher is a term-limited legislator in his last term, facing imminent "annihilation." He had little to lose and, he must have figured potentially much to gain by betraying his campaign prom-

ises. Thus the majority of California voters have been denied the satisfaction of tossing out Willie Brown by the perverse effects of the very measure they had passed for just such a purpose.

Still, the advocates of term limits claim that without this reform, Congressmen will never be compelled to restrain the growth of government, much less to reverse its "culture of spending."

This argument rests largely on the researches of James L. Payne, whose interesting book "The Culture of Spending" does demonstrate that the longer Congressmen serve, the more spending they vote for. But his own evidence, as Thomas Mann and others have shown, shows that this propensity is dwarfed by the difference in spending habits of Democrats and Republicans. On a spending scale in which the maximum score, the highest spending, is 36, Payne shows that freshman Republican Congressmen start out at 8 and after eight or nine terms spend their way up to about 14 out of 36. Democrats start out at nearly 29 and after eight or nine terms inch up to 31. Another way to look at it is that the average score of Republican Congressmen is 10, the average Democratic score is almost 30. From these data one would have to conclude that the most effective way to limit government spending is not to agitate for term limits but simply to elect more Republicans.

Americans should be concerned about the growth of the Federal Government, especially about the effects of the administrative state on our constitutional system. But the welfare state and the administrative state took a long time to build—over a century if, as I think proper, one starts counting with the progressive era. They will not be dismantled or contained in a day. Term limits would be a foolish way to pursue a long-term strategy of reducing the size and scope of government.

To quote "The Federalist" one last time, "It is not generally to be expected that men will vary and measures remain uniform." Enforced rotation in office will inevitably produce an unnatural mutability in measures, not least in the conduct of a great, protracted campaign to restore American republicanism.

Thank you.

[The prepared statement of Mr. Kesler follows:]

PREPARED STATEMENT OF CHARLES R. KESLER, DIRECTOR, HENRY SALVATORI CENTER, CLAREMONT MCKENNA COLLEGE

When the current campaign to limit the tenure of Congressmen and Senators began, the national legislature seemed to be careening from scandal to scandal, the budget deficit was soaring, and the characteristic republican remedy for malfeasance—free elections—appeared powerless to right matters. The re-election rates of incumbent Congressmen hovered around 98 percent, giving rise to jokes about the British House of Lords and even the Soviet Politburo having greater turnover than the U.S. House of Representatives. Political scientists speculated that the arts of incumbency had been so perfected that it was unlikely that the Democratic party would ever have to surrender its majority in the House. But in the intervening five or so years, re-election rates declined, congressional turnover increased enormously, and for the first time in 40 years, Republicans won control of both the House and the Senate.

The fondest dreams of many advocates of term limits were thus realized. Despite gerrymandered districts, the franking privilege, large paid-for staffs in the district and in Washington, slanted campaign finance laws, taxpayer-provided television studios, lavish amounts of PAC-money, and the protective cover of the welfare state, incumbent Congressmen could be defeated, and were defeated, in large numbers in 1994. It proved possible, after all, to "throw the rascals out," despite all the obstacles which, to hear the term limits people tell it, necessitated amending the Con-

stitution. What, then, is left of the case for term limits? Why are they necessary, given that the anxieties over a permanent Congress have been allayed?

The case for term limits now rests on two dubious propositions: first, that term limits are needed in order to make modern government more democratic, that is, more amenable to the popular will through the substitution of citizen-politicians for professional politicians; and second, that they are needed to limit the power and scope of government. Neither proposition holds up under careful examination, as I shall try to show.

In the first place, the effect of term limits will not be to engender citizen politicians but to breed a new species of "itinerant professionals." Regardless whether Congressional term limits were fixed at six, eight, or twelve years, candidates for office would still be able to look forward to a long time away from a regular job. The persons most likely to be able to avail themselves of such a sojourn in politics would be lawyers, lobbyists, the independently wealthy—and career politicians who are switching from one political office to another. Six to twelve years is, after all, a long time to be away from the family farm or the family business. Once in office, the neophyte legislator will be eligible for re-election two, three, or as many as five more times, and so must master the skills necessary to retain his office. This gauntlet will quickly beat the amateurism out of even the most determined non-professional. Besides, the political life is for all its hardships still exciting and alluring. It offers challenges and honors that cannot be found in private life, and those who are sufficiently moved to seek one office will usually be ready to seek another.

Unless term limits would permanently debar a person from holding political office again—something which none of the pending constitutional amendments would do—their effect would be to encourage politicians to be constantly looking to their next post, to the next office for which they could run once the clock is up on their current one. This itinerant arrangement would have most of the disadvantages of professionalism and very few of its considerable advantages. It might make sense to have this constant churning of offices at the local and state level in order to sift out those candidates who are fit for higher office; but it makes little sense to force a rotation among the highest positions in the land, most of whose occupants have already been vetted in contests at the state or local level. At any rate, the chief advantage of professionalism—experience—should not be misprized. "[E]xperience is the parent of wisdom," as Alexander Hamilton put it in *The Federalist*. Expertness in politics, as in any other art, tends to increase with experience. Other things being equal, one generally looks for the most experienced physician one can find, a doctor who has treated many and various cases; in building a house, one hopes not to employ an amateur carpenter. To be sure, politics is different from the art of carpentry or the art of medicine, in that we ask politicians to achieve a more comprehensive good for us, and in so doing to represent us, to act in our stead and in our name. Hence we insist on elections, on regular and public applications of the consent of the governed in order to check any abuses of our trust.

The men who made the Constitution were familiar with term limits. Indeed, they had grown up with them, both in their state constitutions and the Articles of Confederation. How much the more remarkable, then, that when they came to write the U.S. Constitution, they rejected term limits of any kind for any office. It was precisely their experience with the actual operation of "rotation in office" that led them early in the Constitutional Convention to reject the scheme of term limits for House members contained in the so-called Virginia Plan, the starting point for their subsequent deliberations. In some of the state legislatures, which had annual elections, they had seen turnover that amounted to half of the legislators going out every year. These assemblies had certainly been "citizen legislatures," but their members had lacked the experience to legislate wisely, and their evanescent terms and short tenure in office had furnished few incentives to consider the long-term health of their assembly and state. Hence the Framers chose to rely (aside from the "auxiliary precautions" of separation of powers and bicameralism) virtually on elections alone, without any limitations on re-eligibility, to render Congressmen, Senators, and the President responsible to the people.

The Federalist makes the point elegantly: there is "an excess of refinement" in the notion of "disabling the people to continue in office men who had entitled themselves, in their opinion, to approbation and confidence, the advantages of which are at best speculative and equivocal, and are overbalanced by disadvantages far more certain and decisive." A six-year term limit, for example, would have had the certain and decisive effect of disabling the political service of many illustrious members of the House, including James Madison, John Quincy Adams, John C. Calhoun, Everett Dirksen, and Sam Rayburn, each of whom was elected to more than three consecutive terms. A twelve-year limit on Senators would have had the certain and decisive effect of disabling the political careers of many of the most distinguished

members of that chamber, including Daniel Webster, Stephen A. Douglas, Charles Sumner, Henry Cabot Lodge, Robert Taft, Arthur Vandenberg, Barry Goldwater, and Hubert Humphrey, each of whom was elected to three or more consecutive terms. (In both lists I leave out of account the many present members of Congress whose careers would have been cut off by term limits—e.g., Newt Gingrich, Teddy Kennedy, Strom Thurmond.)

In exchange for this hecatomb of legislative talent, what advantages would the country have reaped? Only speculative and equivocal ones, as "Publius" predicted. It is claimed, for instance, that term-limited legislators will be more likely to put aside the politics of casework and constituent service in order to focus on lawmaking. But as I explained before, they will still be eligible for re-election two, three, four, or five more times, and the same costs and incentives will prevail in those electoral battles as they do today in the absence of term limits. Politicians seeking re-election will pour resources into their local or district offices, will pay increased attention to casework and constituent service, will redouble their efforts to raise campaign funds, and so forth. It is said, too, that term-limited legislators will be more likely to rise above the politics of immediate self-interest and to seek to advance the common good. But surely it is more likely that they will feel less attached to long-term, arduous projects for the public good, because they will not be around to shape them and to take credit for them. Legislators' interests will be sundered from their duties, whereas, in Hamilton's words, "the best security for the fidelity of mankind is to make their interest coincide with their duty." Thus the most that could be expected from "the generality of men" under term limits is "the negative merit of not doing harm, instead of the positive merit of doing good."

In fact, far from encouraging a common concern for the public benefit, term limits are likely to exacerbate the forces working to narrow the legislator's horizons. Faced with what *The Federalist* terms his "approaching and inevitable annihilation," the legislator has little incentive to make common cause with his party colleagues, to have a regard for the long-term health of his institution, or even to keep faith with his constituents. In California, for example, voters helped inaugurate the term limits movement by passing Proposition 140, mandating term limits for state assemblymen and senators, partly out of revulsion at business-as-usual in Sacramento, which means at least in part out of antipathy to inveterate Assembly Speaker Willie Brown. Last year, the Republicans won a single-seat majority in the Assembly, and seemed to be on the verge of ousting Brown as Speaker. At the last moment, however, Brown pulled a rabbit out of his hat, the hare in question being Paul Horcher, a Republican assemblyman who renounced his party, declared himself an Independent, and promptly voted for Brown for Speaker. To add insult to injury, Horcher had in the course of his just-concluded campaign frequently criticized Brown's autocratic habits. Why did Horcher risk this treacherous about-face? Horcher is a term-limited legislator in his last term, facing imminent "annihilation." He had little to lose and, he must have figured, potentially much to gain by betraying his campaign promises. Thus the majority of California voters were denied the satisfaction of tossing out Willie Brown by the perverse effects of the very measure they had passed for just such a purpose!

Although it is too early to tell for sure, members of the California Assembly, all of whom are now covered by term limits, do not seem to have become a race of democratic statesmen as a result of Prop 140. Few are planning, Cincinnatus-like, to return to the plow. Instead, most are planning what new office to run for when their six years are up. And many who supported Prop 140 now wish they had devised a better reform that would have made the legislature a more deliberative body, not merely a more temporary one.

There is still time for the House of Representatives and the Senate to avoid this mistake. Many of the improvements devised by the able Rep. David Dreier's committee on congressional reform have already been applied in this Congress, and others may be applied in the future. The rule to rotate committee chairmanships, for example, should improve the deliberative quality of the House and help to lead members away from the temptations of the "iron triangles" of interest group politics. Reducing the number of committees and subcommittees is also a long overdue reform that should reduce the administrative and boost (slightly, so far) the deliberative roles of members. Some further weakening of the seniority system might also be in order. These developments show that the currents of national public opinion do sweep eventually through the House: congressional self-reformation is possible *without term limits*.

Many improvements remain to be accomplished, of course, but now is the time for Republicans and Democrats alike to begin competing seriously in the arena of congressional reform. Let the people hear what each party proposes on campaign finance, on staff size and costs, and so on, and let the people judge. In particular,

the time has come to begin discussing some limitations on the length of congressional sessions. Limit Congress, not congressional terms—this is a reform that would do more to create citizen-politicians than term limits ever could. Montesquieu and John Locke observed that the longer the legislature is in session, the more it is tempted to meddle in the execution of the laws. It is seduced into becoming less of a lawmaking body and more of an administrative overseer; it deliberates less and less as a whole body and operates more and more as a congeries of committees peering into the details of executive administration. Combined with further reforms in committee structure and in House rules, some limitation on the length of legislative sessions would likely render Congress more deliberative.

Such a reform would not require a constitutional amendment, could be tested and argued out incrementally between parties, and would serve to diminish the distance between congressmen and ordinary citizens. Of course, congressmen would have to find something to do with their newly free time (practice law? study *The Federalist*?), and the almost Kantian strictness of our suspicion of personal interest in politics would have to be relaxed—also a good thing. Above all, the advantage of such a reform is that, unlike term limits, it would not stand athwart the genius of the Constitution. Instead of extending the spirit of direct democracy into the heart of our republican institutions, it would bolster the separation of powers and encourage Congress to concentrate on its lawmaking responsibilities.

Still, the advocates of term limits claim that without their peculiar reform, congressmen will never be compelled to restrain the growth of government, much less to reverse its "culture of spending." This argument, especially dear to conservatives, rests largely on the researches of James L. Payne, whose interesting book (*The Culture of Spending*) demonstrates that the longer congressmen serve the more spending they vote for. But his own evidence shows that this propensity is dwarfed by the difference in spending habits of Democrats and Republicans. On a spending scale in which the maximum score (the highest spending) is 36, freshman Republican congressmen start out at 8 and after eight or nine terms spend their way up to about 14; Democrats start out at nearly 29 and after eight or nine terms inch up to 31. Another way to look at it is that the average score of Republican congressmen is 10, the average Democratic score is almost 30. From these data, one would have to conclude that the most effective way to limit government spending is not to agitate for term limits but simply to elect more Republicans.

Besides, his data are drawn mainly from congressional votes in 1986, supplemented by other data from the mid-1970s to the mid-1980s. He does not establish a longer historical pattern. And his numbers refer only to votes on discretionary domestic spending. He acknowledges that on defense spending the pattern is exactly the reverse: Republicans outspend Democrats by a wide margin, and despite the same kinds of lobbying and log rolling that constitute "the culture of spending," defense expenditures (unlike domestic ones) have gone down over time as a percentage of GNP. Again, the partisan or ideological differences between Democrats and Republicans account for the phenomena. As defense spending shows, term limits are not necessary to induce government to shrink relative to GNP.

Americans should be concerned about the growth of the federal government, especially about the effects of the administrative state on our constitutional system. But the welfare state and the administrative state took a long time to build—over a century if (as I think proper) one starts counting with the Progressive era. They will not be dismantled or contained in a day. Term limits would be a foolish way to pursue a long term strategy of reducing the size and scope of government. To quote *The Federalist* one last time, "It is not generally to be expected that men will vary and measures remain uniform." Enforced rotation in office will inevitably produce an unnatural mutability in measures, not least in the conduct of a great, protracted campaign to restore American republicanism.

One of the ironies of the term limits movement is that it may make worse some of the bad tendencies of the administrative state. By depriving Congress of experience and deliberative focus, term limits may increase the power and influence of lobbyists, unelected staff members, and the permanent bureaucracy. Advocates of the reform like to dispute this by claiming that lobbying tasks will be made more difficult by the many new congressional faces. This fear may be justified, but then again it may be mistaken—a confusion, perhaps, of short-term and long-term interests. Term limits may increase the costs of ingratiation, but they may also vastly increase the benefits of plying novice legislators with information, ready-made bills, and other staples of the lobbyists' trade.

Finally, we ought to admit that term limits will have unhappy effects on the American people's character. Term limits are an invitation to irresponsibility, to the neglect of that vigilance which citizens ought properly to exercise over their representatives. It is the attitude lampooned by pundit Michael Kinsley: "Stop me be-

fore I vote again." In fact, the American people are not irresponsible; they can, and will, make serious political choices, if only they are presented with serious political alternatives, as the elections of 1994 showed.

The debate over term limits has so far not confronted them with such a choice, because the alternative has been lacking: the case against term limits has hardly been heard. Republicans signed a Contract With America calling for a debate and a vote on term limits soon. It is important to remember that the Contract does not commit Republicans to support the proposed reform, only to allow constitutional amendments embodying it to come to the floor. There, after full and fair debate, they should be rejected, because term limits do not merit a place in the U.S. Constitution, the fundamental, and enduring, Contract With America.

BAD HOUSEKEEPING

The Case Against Congressional Term Limitations

CHARLES R. KESLER

Everyone complains about Congress, but nobody does anything about it. Frustration with our national legislature, which is by almost every measure widespread among the American public, is about to be exploited by a national movement to throw the rascals out—the rascals, in this case, being incumbent congressmen and senators who have so mastered the art of reelection as to be thought unremovable by conventional means. The most widely touted solution to the problem is the extreme one of adding an amendment to the Constitution limiting the number of terms that members of the House and Senate can serve.

This notion appears to have been first circulated by the same informal network of radio talk-show hosts who were instrumental in rallying public opposition to last year's congressional pay raise. The idea has found support in public opinion polls and is being pressed by a new organization, Americans to Limit Congressional Terms (ALCT), that operates out of the offices of Republican political consultant Eddie Mahe and whose board includes both prominent Democrats and Republicans.

It is the latter party that stands to benefit most from limiting the years a congressman can serve, inasmuch as it is the Republicans who suffer under the rule of a more or less permanent Democratic majority in the House and Senate. In fact, term limitations were endorsed in the 1988 Republican platform. It is hardly surprising, therefore, that conservatives, too, are seizing the issue. In the symposium on conservatism for the 1990s featured in the Spring 1990 issue of *Policy Review*, almost a third of the contributors called for some sort of limitation on congressional terms.

98-Percent Paradox

This movement builds on the public's mounting dissatisfaction with a Congress that is seen not only as unresponsive but also as incompetent and corrupt. Indeed, in light of the chronically unbalanced federal budget, Congress's reluctance to perform even its minimal duty of passing a budget (balanced or not) without resort to omnibus continuing resolutions and reconciliation acts, the 51 percent salary increase for its members

that it tried to brazen through without a rollcall vote, the generous privileges it extends to its members (large staffs, multiple offices, free travel allowances, frequent mailings at public expense, liberal pensions), the corruption-tinged resignations of former House Speaker Jim Wright and former Democratic Whip Tony Coelho, the metastasizing scandal of the Keating Five—in light of all these things, it is a wonder that congressmen get reelected at all.

And yet that is the paradox. Despite a deep dissatisfaction with Congress as an institution, the American people are reelecting their congressmen (that is, members of the House) at the highest rates in history. In the 1986 and 1988 elections, more than 98 percent of incumbent congressmen seeking reelection were returned to office. By now we have all heard the jokes about there being more turnover in the British House of Lords or in the Soviet Politburo than in the U.S. House of Representatives. The interesting question is, Why? What has happened to transform what the Framers of the Constitution envisioned as the most democratic, turbulent, changeable branch of the national government into the least changeable, most stable of the elective branches? And to come around to the question of the moment, will limiting the number of terms a congressman or senator can serve do anything to remedy the problem?

Anti-Federalists: "Virtue Will Slumber"

This is not the first time in American history that a limit on the reeligibility of elected federal officials has been proposed. At the Constitutional Convention in 1787, whether the president ought to be eligible for reelection was extensively debated, although always in close connection with the related questions of his term of office and mode of election. With the invention of the electoral college and with his term fixed at four years, it was thought to be productive of good effects and consistent with his independence from the legislature to

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A two-term limit would have disabled Daniel Webster's Senate career, but not Henry Clay's or John C. Calhoun's.

allow the president to be eligible for reelection indefinitely; and so it remained until the 22nd Amendment was added to the Constitution. But what is less well known is that the Constitutional Convention also considered limitations on the reeligibility of the lower house of the legislature. The so-called Virginia Plan, introduced by Edmund Randolph, would have rendered members of the House ineligible for reelection for an unspecified period after their term's end. The period was never specified because the Convention expunged the limitation less than a month after it had been proposed.

Nevertheless, the question of limiting congressional terms lived on. It was taken up vigorously by the Anti-Federalists, the opponents of the new Constitution, who urged that "rotation in office" be imposed not so much on House members as on senators, whose small numbers, long term of office, and multifaceted powers made them suspiciously undemocratic. The Anti-Federalists built upon the legacy of the Articles of Confederation, which had required that members of Congress rotate out after serving three one-year terms within any five-year period. Quite a few critics of the Constitution attacked the unlimited reeligibility of the president, too, but the brunt of their criticism fell upon the Senate. In their view, it was a fatal mistake to neglect "rotation, that noble prerogative of liberty." As "An Officer of the Late Continental Army" called it in a Philadelphia newspaper, rotation was the "noble prerogative" by which liberty secured itself, even as the Tudor and Stuart kings had ignobly wielded their "prerogative power" in defense of tyranny.

The current appeal for limits on congressional officeholding echoes the major themes of the Anti-Federalists 200 years ago. One of the most rigorous of the Constitution's critics, the writer who styled himself "The Federal Farmer," put it this way: "[I]n a government consisting of but a few members, elected for long periods, and far removed from the observation of the people, but few changes in the ordinary course of elections take place among the members; they become in

some measure a fixed body, and often inattentive to the public good, callous, selfish, and the fountain of corruption." After serving several years in office, he continued, it will be expedient for a man "to return home, mix with the people, and reside some time with them: this will tend to reinstate him in the interests, feelings, and views similar to theirs, and thereby confirm in him the essential qualifications of a legislator." Were the people watchful, they could recall him on their own and substitute a new representative at their discretion. But they are not sufficiently vigilant. As Patrick Henry warned at the Virginia ratifying convention, "Virtue will slumber. The wicked will be continually watching: Consequently you will be undone."

Federalists: The People Are Not Fools

The Anti-Federalist arguments were rejected by the advocates of the new Constitution. However, it is only for the presidency that the authors of the most authoritative defense of the Constitution, *The Federalist*, give a detailed refutation of the scheme of rotation in office. In *The Federalist's* view, there is "an excess of refinement" in the notion of preventing the people from returning to office men who had proved worthy of their confidence. The people are not fools, at least not all of the time, and they can be trusted to keep a reasonably sharp eye on their representatives. So far as history can confirm such a proposition, it seems to pronounce in favor of *The Federalist*. Throughout the 19th and most of the 20th centuries, American politics was not characterized by a professional class of legislators insulated from the fluctuations, much less the deliberate changes, of public opinion. In the 19th century, it was not unusual for a majority of the membership of Congress to serve only one term; congressional turnover consistently averaged 40 to 50 percent every election. Occasionally it reached 60 or 70 percent.

The young Abraham Lincoln, for example, served only one term in the House of Representatives, in keeping with an informal rotation agreement he had



Abraham Lincoln served only one term in the House as part of an informal rotation agreement. Such agreements betokened a vigorous intraparty political life as well as keen competition between the parties.

negotiated with two Whig Party rivals in his district. Such agreements were not uncommon, and betokened a vigorous intraparty political life as well as keen competition between the parties: no party wanted its officeholders to betray an unrepentant ambition. But ambition was controlled informally by rotation within a party's bank of candidates so that the party and the country enjoyed the best of both worlds—a circulation of capable and experienced men through public office, with the possibility of keeping truly exceptional ones in office if circumstances demanded it.

Accordingly, even the most distinguished congressmen and senators of the 19th century pursued what by today's standards would be frenetic and irregular political careers. Henry Clay, famous as "the Great Compromiser," was sent thrice to the Senate to serve out someone else's term (the first time despite his being less than 30 years old); served two years in the Kentucky assembly, the second as its speaker; was elected seven times (not consecutively) to the House and three times was chosen speaker, although he often resigned in mid-term to take up a diplomatic post or run (unsuccessfully, three times) for president; and was elected twice to the Senate in his own right. Daniel Webster was elected to five terms in the House (not consecutively) and four terms in the Senate, in addition to running once (fruitlessly) for president and serving more than four nonconsecutive years as Secretary of State under three presidents. John C. Calhoun was elected to four terms in the House, served seven years as Secretary of War, was

elected twice to the vice presidency, and then served two years of Robert Hayne's (of the Webster-Hayne debate) Senate term, two Senate terms in his own right, one year as Secretary of State, and four more years in the Senate.

By the way, the ALCT's proposed constitutional amendment, which would limit members of Congress to 12 consecutive years in office (six terms for representatives, two for senators), would have had no impact on Clay's nor Calhoun's career but would have disabled Webster, who was elected three times in a row to the Senate.

The Swing Era Ends

But the larger and more important point is that today's entrenched Congress is a product of the great changes in American politics that have occurred since the late 19th century, particularly the weakening of political parties and the great increase in the size and scope of the federal government. Serving in Congress has become a profession over the past 100 years. The average (continuous) career of congressmen hovered around five years at the turn of the century, already up significantly from its earlier levels; today, the figure has doubled again, with the average member of the House serving about 10 years. In the century after 1860, the proportion of freshmen in the House plummeted from nearly 60 percent to around 10 percent, about where it remains today. This gradual professionalization of Congress owes something to the gradual increase of power in Washington, which made it more attractive to hold office; and still more to the seniority system, introduced in the House after the famous revolt against the power of the Speaker around 1910. With the seniority system in place, districts had great incentives to keep their representatives serving continuously. But the contemporary problems of incumbency are something else again. Since 1971, when House Democrats voted in their caucus to elect committee chairmen by secret ballot

Today's entrenched Congress is a product of the weakening of political parties and the great increase in the size and scope of the federal government.

rather than follow the rule of committee seniority, the perquisites of seniority have declined, in part. Yet congressional reelection rates have risen. If it is not the advantages of seniority that account for today's almost invulnerable incumbents, then what is it?

Since the Second World War, reelection rates have been very high, averaging more than 90 percent; they

Have These Legislators Been in Office Too Long?



Rep. Henry Hyde
(R - Illinois)
Elected 1974



Senator Sam Nunn
(D - Georgia)
Took office 1972



Senator Bill Bradley
(D - New Jersey)
Elected 1978



Senator Jesse Helms
(R - North Carolina)
Elected 1972



Rep. Newt Gingrich
(R - Georgia)
Elected 1978



Senator Orrin Hatch
(R - Utah)
Elected 1976



Senator Richard Lugar
(R - Indiana)
Elected 1976



Rep. Dan Rostenkowski
(D - Illinois)
Elected 1980



Rep. Tom Foley
(D - Washington)
Elected 1984

have risen even further recently, approaching 100 percent in the last few elections. The political scientist David Mayhew identified the key to the incumbency problem as "the vanishing marginals," that is, the decline over the past 40 years in the number of marginal or competitive House districts. (A victory margin of 50 to 55 percent makes a district marginal, that is, capable of being won by a challenger.) In 1948 most incumbents won narrowly, getting less than 55 percent of their district's vote. Twenty years later, three-fourths of the incumbents received 60 percent or more of their district's vote, making these essentially safe seats for the winning congressmen. So, not only are more incumbents than ever winning, they are winning by bigger margins than ever before.

Explanations for the decline in marginal districts have not been scarce. First, there is the effect of gerrymandered congressional districts, which tend to be drawn in such a fashion as to lock in incumbents of both parties. Researchers have shown, however, that marginal districts declined just as sharply in the 1960s in states that did not redistrict as in those that did; so gerrymandering cannot be the principal culprit. Then there is the effect of incumbency itself—the franking privilege, free publicity stemming from benefits delivered to the district, prodigious sums of money contributed by political action committees, all of which make possible the greater name recognition that is supposed to discourage unknown and underfunded challengers. As the rates of incumbent reelection have climbed, therefore, one would expect an increase in incumbents' name recogni-

tion. But, as John Ferejohn and other analysts have shown, the data do not bear this out: incumbents are no better known now than they were before the marginal districts started vanishing. For all of the incumbents' advantages in name recognition, this factor cannot be the crucial one in explaining the decline in competitive House districts.

Faceless Bureaucracy's Friendly Face

In his arresting book *Congress: Keystone of the Washington Establishment*, the political scientist Morris Fiorina puts his finger on the nub of the problem. During the 1960s, congressmen began to put an unprecedented emphasis on casework or constituent service and pork-barrel activities as a way to ensure their reelection. The new emphasis was made possible precisely by "big government," the federal government's expansion of authority over state and local affairs that began dramatically with the New Deal and accelerated during the Great Society. As the federal bureaucracy expanded, more and more citizens found themselves dealing directly with federal agencies—the Social Security Administration, the Veterans Administration, the Equal Employment Opportunity Commission, the Environmental Protection Agency, and so on. To penetrate the mysteries of the administrative state, to find a friendly face amid the "faceless" bureaucrats and a helping hand among so many seemingly determined to do injustice in particular cases, citizens began increasingly to turn to their congressman for succor.

And they were encouraged to do so, particularly by the younger and more vulnerable congressmen who had come into office in the great Democratic waves of 1964 and 1974. Eventually, however, almost all congressmen caught on to the "new deal" made possible and necessary by the increased reach of Washington. The beauty of the new politics was that the same congressmen who were applauded for creating new federal agencies to tackle social problems also got credit for helping their constituents through the labyrinths of these impersonal bureaucracies. In Fiorina's words: "Congressmen take credit coming and going. They are the alpha and the omega." The more ambitious of them exploit the paradox shamelessly: the more bureaucracy they create, the more indispensable they are to their constituents. To which one must add: the longer they've been around

Constituent service is gradually transforming the House of Representatives from the most popular branch of the legislature into the highest branch of the civil service.

Washington, the more plausible is their claim to know precisely how to aid their constituents with the bureaucracy.

It is clear that knowledge of these bureaucratic folkways is more important to voters than ever before. But it requires only a very small number of swing voters, perhaps only 5 percent or so, to transform a district from being marginal or competitive into being safe (thus increasing the incumbent's vote from, say, 55 to 58 percent). To explain the disappearing marginal districts it is therefore necessary only for a very small sector of the electorate to have been won over to the incumbent by the constituent service and pork-barrel opportunities opened up by an activist federal government. To this group of voters in particular, perhaps to most voters to one degree or another, the congressman's job is now thought to be as much administrative as political. The spirit of nonpartisan, expert administration—central to modern liberalism as it was conceived in the Progressive Era—is gradually coloring the public's view of the House of Representatives, transforming it from the most popular branch of the legislature into the highest branch of the civil service.

If this is true, the congressman's expertise is a peculiar sort, involving as it does interceding with civil servants (and appointed officials) in the spirit of personal, particularistic relations, not the spirit of impersonal rule

following associated with the civil service. Nonetheless, he is expected to keep benefits and services issuing to the district, just as a nonpartisan city manager is expected to keep the streets clean and the sewers flowing. And to the extent that ombudsmanship is a corollary of bureaucracy (as it seems to be, at least in democratic governments), his casework partakes of the spirit of administration rather than of political representation.

Hamilton's "Sordid Views"

Given the origins and nature of the problem with Congress (really with the House of Representatives, inasmuch as Senate incumbents remain beatable), it is apparent that limiting congressional terms to 12 years will do little or nothing to remedy the situation. Any new faces that are brought to Washington as the result of such an amendment will find themselves up against the same old incentives. They will still be eligible for reelection five times. How will they ensure their continued political prosperity without seeing to constituents' administrative needs? If anything, these new congressmen will find themselves confronting bureaucrats rendered more powerful by the representatives' own ignorance of the bureaucracy: for in the administrative state, knowledge is power. It is likely, therefore, that the new congressmen will initially be at a disadvantage relative to the agencies. To counter this they will seek staff members and advisers who are veterans of the Hill, and perhaps larger and more district-oriented staffs to help ward off challengers who would try to take advantage of their inexperience. Is it wise to increase the already expansive power of bureaucrats and congressional staff for the sake of a new congressman in the district every half-generation or so?

The proposed limitation on congressional terms would also have most of the disadvantages of the old schemes of rotation in office that were criticized by the Federalists. Consider these points made by Alexander Hamilton in *Federalist* No. 72 (concerning rotation in the presidency, but still relevant to rotation in Congress). In the first place, setting a limit on office-holding "would be a diminution of the inducements to good behavior." By allowing indefinite reeligibility, political men will be encouraged to make their interest coincide with their duty, and to undertake "extensive and arduous enterprises for the public benefit" because they will be around to reap the consequences. Second, term limits would be a temptation to "sordid views" and "speculation." As Gouverneur Morris put it at the Constitutional Convention, term limits say to the official, "make hay while the sun shines." Nor does a long term of eligibility (12 years in this case) remove the difficulty. No one will know better than the present incumbent how difficult it will be to defeat the future incumbent. So the limits of his career will always be visible to him, as will the temptation to "make hay" as early as possible.

A third disadvantage of term limits is that they could deprive the country of the experience and wisdom gained by an incumbent, perhaps just when that experience is needed most. This is particularly true for senators, whose terms would be limited even though Senate races are frequently quite competitive (recall

1980 and 1986) and that the Senate was precisely the branch of the legislature in which the Framers sought stability, the child of long service.

Distraction for GOP

For conservatives and Republicans, the pursuit of a constitutional amendment to limit congressional terms would act as a colossal distraction from the serious work of politics that needs to be done.

The worst effect of the incumbents' advantage in the House is to have saddled America with divided government since 1968 (excepting Jimmy Carter's administration, which was bad for other reasons). Professor Fiorina estimates that if marginal districts had not declined, the Republicans would have taken control of the House five times in the past quarter-century—in 1966, 1968, 1972, 1980, and 1984 (he did not evaluate the 1988 results). Because the marginals did decline, the Democrats, trading on the power of their incumbent members, retained control of the House throughout this period, despite the succession of Republican presidents who were elected.

It would be unfair, of course, to blame the Democrats' popularity wholly on the decline in marginal districts. The GOP has not done well enough in open-seat elections to rely on the incumbency effect as the all-purpose excuse for its inability to take the House. But it is a fair conjecture that the ethos of administrative politics works to the Republicans' disadvantage even in those districts lacking a Democratic incumbent. Which is not to say that Republican incumbents don't look out for themselves; they do. But the spirit of casework and pork-barrel cuts against the grain of conservative Republican principles, and so it is hard for Republican candidates to sound like Republicans when they are preaching the gospel according to FDR and LBJ. More to the point, it is difficult for the Republican Party to articulate why people ought to consider themselves Republicans and ought to vote a straight GOP ticket under these circumstances.

Is it wise to increase the already expansive power of bureaucrats and congressional staff for the sake of a new congressman in the district every half-generation or so?

The attempt to limit congressional terms would do nothing to relieve Republicans of these tactical disadvantages. What is needed is not a gimmick to stir up political competition, but the prudence and courage to



Edmund Randolph's plan to limit congressional terms was rejected by the Constitutional Convention.

take on the strategic political questions dividing conservative Republicans and liberal Democrats. By (among other things) reconsidering the scope and power of the federal government, by opposing the extension of centralized administration over more and more of American life, Republicans could inaugurate robust political competition. President Reagan and the Republican Party were successful at this in 1980, when the GOP gained 53 seats in the House and took control of the Senate. But they seem to have neglected those lessons in succeeding elections.

By the 1992 election, when reapportionment and redistricting have taken hold (and assuming a generous number of retirements), there could be 100 House districts without an incumbent. To win these the Republicans will require not just the better party organization they have been assiduously building, important as that is, but also a moral and political argument against what, to borrow the 18th-century vocabulary, could be called the corruption of the national legislature and of national politics generally—not corruption in the sense of criminal venality, but in the sense of insulating our legislators from the currents of national political opinion, and encouraging them, and their constituents, to subordinate the public good to their own private welfare.

In this fight, congressional term limitations would be at best a distraction. If the American people want to vote all incumbents out of office, or just those particular incumbents known as liberal Democrats, they can do so with but the flick of a lever. All they need is a good reason.

Mr. CANADY. Thank you very much.
Next, Mr. John Kester will testify.

**STATEMENT OF JOHN G. KESTER, ESQ., WILLIAMS &
CONNOLLY**

Mr. KESTER. Thank you, Mr. Chairman, and members of the subcommittee.

I appreciate your invitation to testify today. Although I do so only as an individual, I do want the record to reflect that I am privileged to appear as an attorney for United States Term Limits, Inc., and Arkansans for Governmental Reform in the litigation that is currently pending in the Supreme Court.

I have also appeared in other cases to defend state laws that restrict or discourage long incumbency in Congress.

I would also like to note for the record, that two of those cases have benefited from the participation as amicus curiae of the distinguished chairman of the full committee, Mr. Hyde. He and I have read the Constitution differently in those cases, but I should like the record to reflect my admiration for his devotion to principle and my respect for his arguments, even though we do not agree.

Mr. HYDE. Thank you very much.

Mr. KESTER. This morning from my written statement, I would like to offer just three observations.

The first is, whichever way the pending Supreme Court case comes out, it will not affect the need to consider these proposals. That case concerns only State legislation affecting elections and the representatives of particular States. What you are considering today are proposals to establish nationwide term limits for the House and Senate.

My second point is that a term limits amendment is not inconsistent with the kind of government that the authors of the Constitution intended to establish. Madison said that he expected that, "new Members would always form a large proportion," of the House.

For most of our country's history, that expectation proved essentially correct. It was not until the mid-20th century that the advantages of incumbency became so relatively enormous, and the return rate of incumbents seeking reelection rose to around 90 percent.

When the expectation that Presidents would serve only two terms proved incorrect, we might note, the Constitution was promptly amended to require a return to the old expectations. And as was pointed out, I believe, by Mr. Goodlatte, even in last November's elections, which are portrayed as a great upheaval, still 90 percent of the House incumbents and 92 percent of the Senate incumbents who did seek reelection were successful. And of the very few House incumbents who were defeated, nearly half of them were incumbents who had served only one term.

The issue, I would also like to emphasize, is not a personal one, certainly not with me, nor is it whether Members of Congress are good and honest and hard-working people. As Mr. Serrano observed, corruption and that sort of thing is not what this is about, and I personally have the greatest respect for all of the members of this committee. We are not talking about whether House Members are hard-working citizens. Of course they are.

I might note parenthetically that they are hard-working citizens because they have to be citizens, because the Constitution which has some rights to choose in it, does not allow the voters a right to choose representatives who are not citizens. But what the people are saying simply is that they do not want service in this House or in the Senate to be a career.

I am impressed, like Senator DeConcini, by the willingness of Mr. Hyde to support bringing this very important issue to the floor of the House. And I think you might consider that by similar reasoning, and particularly because Members of this body are unavoidably personally caught up in this issue, that, it seems to me, is all the more reason for you to allow it to be put before the legislatures of the 50 States through the prescribed constitutional process, and give them and the people whom they represent an opportunity to play their role in the process.

Finally, and this goes beyond the subject of term limits, I would like to point out that the authors of the Constitution who wrote a marvelous and great document, did not believe themselves that it was a perfect document. They themselves expected, and again I will quote Madison, that "useful alterations will be suggested by experience."

Term limits for Congress is exactly the kind of basic structural issue that is particularly suited for constitutional amendment, just as term limits for the President were added in 1951. When the subject is suitable and the proposal reflects today's needs, we should not hesitate to initiate that process. Term limits are such a subject. The men who wrote the Constitution would have expected no less.

Thank you. I would be happy to respond to any questions.

Mr. CANADY. Thank you, Mr. Kester.

[The prepared statement of Mr. Kester follows:]

PREPARED STATEMENT OF JOHN G. KESTER, ESQ., WILLIAMS & CONNOLLY

Mr. Chairman and Members of the Subcommittee, I appreciate your invitation to testify today on proposals to amend the Constitution to establish term limits for Congress.

Although I appear today simply as an individual, I also have been privileged as an attorney to represent U.S. Term Limits, Inc. in several recent court cases defending state laws that restrict ballot access of multi-term congressional incumbents. I also represent a citizens group called Arkansans for Governmental Reform, which sponsored the Arkansas amendment that is challenged in the case currently pending before the Supreme Court of the United States.¹ (Notes at end of statement.)

Two of those cases in which I appeared—the litigation in the United States District Court in Seattle, and the Arkansas case that is in the Supreme Court—benefited from the participation of the Chairman of the full Committee on the Judiciary, Mr. Hyde, who appeared through able counsel as a friend of the court. In those cases his reading of the Constitution and mine have not been the same. But I should like the record to reflect my admiration for his undeviating devotion to principle, and the candor and consistency of his arguments. They did not persuade me, but I am not the person he has to persuade. On many other legal subjects, I suspect that he and I would be in agreement.

There are three questions that I shall address briefly today:

First, is a term limits amendment consistent with the kind of government the authors and ratifiers of the Constitution intended?

Second, are national term limits the kind of subject appropriately addressed by constitutional amendment?

Finally, should the absence of a national term limits requirement in the original Constitution inhibit the Congress from proposing one now?

I.

Turning to the first point, do term limits for Congress clash with the basic scheme and expectations of the authors of the Constitution? believe they do not. Term limits in fact promote the open electoral process with citizen-legislators that the Framers anticipated, and that the modern advantages of incumbency have altered.

The Constitution as written in 1787 did not limit the terms of any federal elected officials. "Rotation," as it was called, was required in several state legislatures and had been included for delegates to the Congress of the Articles of Confederation, but there was not a consensus about the wisdom of making it compulsory for every state. Nevertheless, although the Framers did not include a national limit on terms in the Constitution, they did not in any specific provision, nor in any statement at Philadelphia or the ratifying conventions, prohibit states from requiring rotation. States automatically regulated the terms of their Senators, who were chosen by the state legislatures until the Seventeenth Amendment in 1913. And quite clearly the Framers expected that by requiring biennial elections, they had ensured that there would be constant turnover in the House of Representatives—that, in Madison's words, "new members . . . would always form a large proportion."²

For most of this country's history that expectation of the Framers proved essentially correct. For various reasons, including tradition, most Members of Congress did not stay long in office, just as Presidents until 1940 followed George Washington's example of two terms. When prolonged incumbency in the Presidency appeared in the Roosevelt administration, soon afterwards, in 1951, the Twenty-second Amendment was added to limit presidential terms.

Beginning in the latter part of this century, the tradition of overall turnover in the Congress also dramatically changed. Instead of the pattern of turnover, the holding of congressional office came to be seen as a lifetime career. The rate of reelection moved towards 90%, election after election.

The most recent elections, which were hailed as a great upheaval, in fact showed no deviation from the pattern of incumbent advantage. True, a handful of prominent incumbents were defeated, but the fact they could be defeated at all was big news. In fact a higher percentage of incumbents who ran was returned to Congress in 1994 than in 1992. Of the 385 House members who sought reelection, 350 (90%) were successful. And of those who lost, half (17 of 35) had served only one term and so had not yet the full advantages of incumbency. In the Senate, 26 incumbents ran, and 24 (92%) won. The 1994 election simply confirmed that if there is to be change, nowadays it normally will come only in districts without an established, entrenched incumbent. And it does not take long to entrench.

Just as the time finally came for a constitutional amendment to end prolonged incumbency in the executive branch, the time now is here to apply the same medicine to the legislative branch, to return to something closer to the original expectation. It is not a sufficient answer, in my judgment, to say that elections themselves are term limits, and to observe that the people can always vote an incumbent out. The people, every poll has shown for several years, do not agree that elections as conducted nowadays are a sufficient guarantee of responsive government. They disagree by an astounding majority in the range of 70% to 80%.

The same argument that elections are enough could be advanced—and was—against the term limits amendment that was adopted in 1951 to restrict the appetite for presidential incumbents. The Constitution frequently places limits on electoral choice. It is full of provisions that restrict the people from results that overall are believed likely to be unwise as a policy—such as electing members to this House who are younger than twenty-five years old.

The basic expectation of the Framers, that frequent elections to the House would ensure turnover, has failed because of changes in the modern governmental and political structure. These changes mean—and the people now understand—that elections against established incumbents do not begin on a basis remotely resembling equality.

If you look through Title 2, the volume of the United States Code dealing with Congress, you will find that Congress over the years has enacted law after law that, intentionally or not, gives its incumbents huge advantages over challengers. These include, to mention just a few, franked mail with mass mailings, radio and television studios, office expense allowances, personal staffs, committee staffs, stationery, travel allowances, and offices in home districts as well as Washington.³

Incumbents also have substantial unwritten advantages. They are able to make news and obtain free media exposure. Seniority gives them more control of how federal laws are written, and where federal money is spent. Election districts often are drawn in peculiar shapes to help incumbents keep their seats. And in an era where the cost of campaigns and publicity has become enormous, big donors target their

contributions to winners—which incumbents have already demonstrated themselves to be. As one very distinguished and experienced Washington lawyer, Mr. Lloyd N. Cutler, who does not support term limits, explained:

Incumbent candidates, of course, can deliver more immediate legislative results than mere challengers. This fact enables them to raise much more money for the next campaign than their challengers, giving incumbents an enormous advantage in primary and general elections. They not only have more money; they have it much earlier, a factor that discourages many would-be challengers from even making the race. In 1986, an astounding ninety-eight percent of all House incumbents of both parties who ran for reelection were reelected. Equally astounding, over the past thirty years a weighted average of ninety percent of all House and Senate incumbents of both parties who ran for reelection were reelected, even at times when their own party lost control of the Presidency itself.⁴

I recall in my own experience an illuminating conversation many years ago with a friend from grade school, Bill Steiger, who for several terms was a distinguished member of this House from Wisconsin, and who died most untimely young. I naively commented that it must be difficult to serve in the House of Representatives with the threat of another new election challenge constantly looming. Actually, he replied, after about three terms, unless one did something terribly wrong or was targeted with immense opposition, reelection usually was not much of a worry.

No one should hold the illusion that term limits have no downside. Certainly they bring costs as well as benefits, losses as well as gains. As with any policy decision, one has to balance and choose. Term limits mean that the service of some valuable representatives will be ended, at least service in that particular body. Bill Steiger, for instance, was exactly the kind of person whom I would have voted to reelect probably for as long as he was willing to run. That holds true of many members of this House and the Senate today as well.

But the notion that particular individuals are indispensable is not part of our tradition of government. The Constitution is full of compromises. And most citizens now would choose, with very good reason all in all, to forgo some valuable long incumbencies in the House or the Senate, in order to avoid the costs of a government in which the occupation of legislator-for-life has become the norm.

Moreover, term limits have potential benefits that too often are ignored. For instance, there are members of both this House and the United States Senate who have provided extraordinary service to their country, for many years. Term limits would shorten such tenures; but they would not necessarily end careers of service. For one example, the experience with term limits in the California legislature already has been to increase movement from one position of government service to another—from house, for instance to senate, to executive branch, and among state and county offices.⁵ Although rotation can carry with it some loss of expertise, wider experience in other occupations also has value, and is likely to bring greater perspective. On balance, the judgment that more assured turnover serves the people better than entrenched incumbency makes sense.

If long experience is needed to serve wisely in Congress, it is also appropriate to ask, experience where, doing what? It is not clear why one's experience has to come from prior terms in a particular body. Alexander Hamilton foresaw the House of Representatives not as a class of professional legislators, but rather as reflecting a "diversity in the state of property, in the genius, manners, and habits of the people of the different parts of the Union."⁶ And many citizens would say that if you look at the legislative record of the Congress over the past forty or fifty years—during the time the incumbency rate really shot up—in matters like taxing, spending, and expansion of the federal government, there is no demonstration that all this experience has resulted in better government for the people. Many would argue that it tends to prove exactly the opposite.

II.

Is term limits the kind of issue that should be settled in the Constitution? Right now it is being addressed by individual states, and bills may be introduced for Congress to regulate by statute, exercising its many legislative powers respecting elections under the Fourteenth, Fifteenth, Nineteenth, Twenty-fourth and Twenty-sixth Amendments, as well as Article I and the Seventeenth Amendment.

As you are aware, nearly half the states have already acted on this subject. Fifteen states now have laws or state constitutional provisions that after a specified number of terms in the House or Senate, candidates' names may no longer appear on the ballot. Seven states prohibit election after a specified number of terms.

The case currently pending in the Supreme Court challenges an initiative by which the voters of Arkansas in 1992 amended their Constitution to provide that after three terms in the House of Representatives or two in the Senate, a candidate's name will not appear on the printed ballot for that office, although such a person can still be elected by write-in. The challengers' theory is that the clauses of the Constitution that set minimum age, citizenship and residency requirements for the House and Senate, should be read by implication to exclude states from enacting any others. The challengers also argue that even though the Arkansas provision allows election by write in, it should still be treated as if it were a disqualification.

The defenders of the Arkansas initiative, whom I represent, have argued first that a ballot restriction is not a disqualification at all. Even if it were, however, the defense believes that the minimum requirements in the Constitution are not to be read as impliedly excluding state power, especially in light of the Tenth Amendment's reservation of powers to the states. We also contend that Article I and the Seventeenth Amendment separately allow initiatives like the one in Arkansas; and that Article I further specifically recognizes that states may regulate the manner of federal elections, so that for example eight states immediately after the adoption of the Constitution proceeded to add various qualifications of their own for election to Congress.

There are at least three ways the Supreme Court could rule:

1. Because the Arkansas provision, like those of more than a dozen states, does not prevent election or service, and allows election by write-in, the Supreme Court may hold that it is simply a valid ballot regulation. In that situation, the validity of the laws that other states have enacted which impose actual term limits might remain unsettled.

2. The Court could uphold the constitutional power of the people of each state to limit the number of terms of their members of Congress. In that event, there will be varying provisions among the states, and the states that do not have term limits might acquire an advantage through the seniority of their Senators and Representatives.

3. The Court could hold that the states may not limit congressional terms. In that circumstance, the only avenue for term limits would be through the amendment process, unless Congress exercised its multiple legislative powers in a new way.

Whatever the Supreme Court's decision, a constitutional amendment on this subject will still be appropriate. Term limits proposals address the permanent structure of our government. They embody enduring national concerns and values. Such issues are exactly the kind for which stable and permanent solutions are needed and constitutional amendments are appropriate. Indeed, elections are the subject of eight constitutional amendments already, which is nearly half of all those adopted since the Bill of Rights.

Other than state laws and initiatives, which cannot be national in scope, the only avenue the voters have for establishing limits to congressional incumbency is through Congress itself. Yet they are asking members to propose a change that may not be in the personal interests of the members themselves. Because of such institutional resistance, it took many years of demands from the people before Congress proposed the Seventeenth amendment of 1913, which allowed the people rather than the state legislatures to choose Senators. Once Congress finally acted, the amendment was ratified by three-quarters of the states in just one year. Perhaps in such situations, when Congress' own members have an interest, they should feel particularly reluctant to stand in the way of allowing the states to consider the change through the ratification process.

III.

The final observation I would offer goes beyond the particular issue of term limits. Should the Congress ever reject a proposed amendment, despite the needs and consensus of the present day, simply out of reluctance to change the Constitution?

I hope that this Committee will not be hesitant in exercising its role of keeping the Constitution working well and in tune with the times. That, I would submit, is not the job of the Supreme Court, but too often the Court is left feeling that there is no one else left to do it. If there are to be changes and improvements made in the Constitution, they ought to start here, not across the street. And if the Supreme Court gets it wrong, you ought not assume that they know better than you, nor should you feel timid about changing constitutional provisions that time has shown need to be changed. After all, it was amended eleven times before it had been in operation ten years.

The authors of the Constitution themselves anticipated that there would be need for changes. As Charles Pinckney of South Carolina observed, "[i]t is difficult to form a Government so perfect as to render alterations unnecessary."⁷ James Iredell told the North Carolina ratifying convention that by prescribing an amendment procedure in Article V, the Constitution had provided "a remedy in the system itself for its own fallibility."⁸ And James Madison predicted that "useful alterations will be suggested by experience."⁹ I have expanded on this theme in a short article to be published later this month; with your permission I have attached a copy for the record.¹⁰

It happens that I live in an old house that was built not long after the Eighteenth Century. I love that house, but there have been some changes since it was built. Rooms have been added, and plumbing, and electricity. It has often had to be repaired. It preserves the original atmosphere, along with some newer comforts not anticipated by the people who first planned it. The original design has held up well, but modifications have made it even better.

The structure of government under which we live is not all that different. It can serve best when we provide the necessary repairs and changes. The original Constitution was an admirable document, but not a perfect one. It lacked a bill of rights. It permitted slavery. And it set no limit on the tenure of federal elected officials.

All this is not to say that the Constitution should be amended willy-nilly, or without careful reflection. But I believe that it probably ought to be amended more often than it has been, and not by the courts but by the constitutionally authorized process that starts in this room. Term limits for Congress, like term limits for the President, is a subject entirely appropriate for inclusion in the fundamental law. Your duty is an honorable and essential one, and you should not hesitate to exercise it wisely.

Thank you.

NOTES

¹ *U.S. Term Limits, Inc. v. Thornton*, Nos. 93-1456 and 93-1828.

² 1 Max Farrand, *The Records of the Federal Convention of 1787* 361 (rev. ed. 1966).

³ See, e.g., 2 U.S.C. §§123b, 123b-1 (House and Senate recording studios); 2 U.S.C. §58a (telecommunications services); 2 U.S.C. §§57, 58c (office expense allowances); 2 U.S.C. 61-1, 332 (personal staffs); 2 U.S.C. §72a (committee staffs); 2 U.S.C. §§43, 43b, 58 (travel allowances); 2 U.S.C. 46b-1 (Stationery); 2 U.S.C. §§57, 59 (offices in districts and home states). See also 39 U.S.C. §§3210, 3211, 3212 (franked mail, including "mass mailings").

⁴ Cutler, "Now Is the Time for All Good Men . . .," 30 *William & Mary Law Review* 387, 394-95 (1989) (footnote omitted).

⁵ See Brief Amicus Curiae of Citizens For Term Limits and Pacific Legal Foundation in *U.S. Term Limits, Inc. v. Thornton*, at pp. 22-27 (attached).

⁶ *The Federalist* No. 60.

⁷ 3 Max Farrand, *supra*, at 121.

⁸ 4 Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* 177 (1836).

⁹ *The Federalist* No. 43.

¹⁰ Keister, "Amendment Time," *The Washingtonian*, March, 1995.

Amendment Time

The Washingtonian, Mar. 1995 by John G. Kester

1 If the people really are serious about
2 taking back their government, they
3 can start by amending the Constitu-
4 tion. There have been a few lurches
5 in that direction—like the balanced-
6 budget amendment that was part of the
7 Republicans' Contract With America, and
8 some talk about amendments that would
9 ban unfunded federal mandates or set uni-
10 form term limits for Congress.

11 That's a beginning, but a modest one.
12 The current state legislatures are in a
13 receptive mood. If Speaker Gingrich and
14 the new tribunes of the people really want
15 permanent change in the way Washington
16 and its federal judges run the country, then
L 17 this spring constitutional amendments
18 ought to be blossoming like azaleas.

19 But don't count on it. The op-ed pages
20 already have begun to darken with warn-
21 ings from learned scholars, politicians,
22 and columnists that to lay hands on the
23 Constitution would be impractical, even
24 dangerous, downright unpatriotic. The
25 Constitution, they suggest, is so nearly
26 perfect that to revise it would be like alter-
27 ing the formula of mother's milk—noth-
28 ing else could be so healthful, and any
29 variation might make you sick.

30 Is the Constitution too flawless and
31 sacred a document to violate with alter-
32 ations? Most of the Cassandras stop short
33 of suggesting it was divinely inspired, but
L 34 even that has been claimed. The less
35 devout shake their heads and say that

36 adding amendments just isn't practical --
 37 that it can never work, that even figuring
 38 out the right words is too hard, that the
 39 only way to fit the Constitution to the
 40 times is to leave all corrections to the
 41 courts.

L 42 Even aesthetics is invoked. To add
 43 amendments, it has been said, would make
 44 our classically crisp federal Constitution
 45 resemble those ungainly creations of the
 46 50 states. State constitutions are longer,
 47 often loaded with dozens of amendments,
 48 and deal with such mundane affairs as off-
 49 street parking in Baltimore (Maryland
 50 Constitution Article XI-C) or preserving
 51 natural oyster beds (Virginia Constitution
 52 Article XI, section 3).

53 But no one has shown that state consti-
 L 54 tutions do not work—or, indeed, that
 55 lengthy and detailed constitutions don't
 56 work better because they leave less room
 57 for doubt. Automobile engines reliably
 58 move your car without being engineered
 59 to win beauty contests. If the purpose of
 60 the Constitution is to model 18th-century
 61 elegance, perhaps the parchment should
 62 be moved from the Archives to the Nation-
 63 al Gallery.

64 The Constitution exists to be applied,
 65 not to be adored. A politically rare oppor-
 66 tunity will be lost if the hand-wringing
 67 about constitutional purity succeeds in
 68 scaring off reformers. Of course not every
 69 popular idea belongs in the Constitution,
 70 and not every proposed policy change

71 would be a good one. But (dare one say
72 it?) there is room for improvement.

73 No one should take all the amendment
74 warnings seriously. The authors of the
75 Constitution certainly wouldn't have.

76

77 The men who spent the summer of 1787
78 holding secret meetings in a room in

L 79 Philadelphia did not think they were
80 Moses, chiseling stones with dictation
81 from a Higher Source. Their unaircondi-
82 tioned days passed in disagreements, end-
83 less compromises, and perspiration. The
84 product was simply a well-organized doc-
85 ument that most could accept, although
86 with varying degrees of reluctance.

87 The 13-state ratification process that fol-
88 lowed was even more contentious, and
89 nearly failed. To obtain agreement from
L 90 the minimum nine states took nine
91 months, and the votes in key ratifying con-
92 ventions were too close for comfort: Vir-
93 ginia 89 to 79, Massachusetts 187 to 168,
94 New York 30 to 27 . No one arguing for
95 ratification ever gave a speech claiming
96 the document was perfect; the authors
97 more humbly expressed hope and said they
98 had done the best they could.

99 All recognized that, as Virginia's George
100 Mason observed at the beginning, "The
101 plan now to be formed will certainly be
102 defective." (So defective, particularly in its
103 treatment of slavery, he finally concluded,
104 that in the end he refused to sign it.) For
105 that reason, the Constitution was written

106 with one article of its seven devoted entire-
 107 ly to the subject of how to amend it. This
 108 was done, acknowledged Charles Pinck-
 109 ney of South Carolina, because "It is diffi-
 110 cult to form a Government so perfect as to
 111 render alterations unnecessary." Amend-
 112 ments, James Iredell told the reluctant
 L 113 North Carolina ratifying convention,
 114 would provide "a remedy in the system
 115 itself for its own fallibility." Even James
 116 Madison, called the Father of the Constitu-
 117 tion, anticipated that his offspring would
 118 need to grow. "[U]seful alterations," he
 119 predicted, "will be suggested by experi-
 120 ence."

121
 122 Alterations did come, but mostly not in
 123 the way Madison anticipated. They
 124 have come usually by courts announcing,
 125 and sometimes revising, their conclusions
 L 126 about what words of the Constitution
 127 mean.

128 Anyone who says that amending the
 129 Constitution is in principle a bad idea is
 130 really selling a notion about where to
 131 assign power. For a long time now the only
 132 players in the constitution-altering game
 133 have been judges. They have secured their
 134 position by taking open-ended phrases like
 135 "due process of law" or "the freedom of
 136 speech" or "Commerce...among the sever-
 137 al States" and announcing that these mean
 138 one thing, and then another, and then
 139 another. Many of their pronouncements,
 140 which take the form of decisions in law-

141 suits, seem logical and correct. Others
 142 occasionally appear daffy. The secret was
 L 143 spilled when Charles Evans Hughes,
 144 before he became Chief Justice, explained
 145 in a speech: "The Constitution is what the
 146 judges say it is."

L 147 That is true, however, only if the
 148 Supreme Court's view is not superseded
 L 149 by a higher authority—the amending
 150 process. It makes no sense to cut off
 151 debate on any subject by saying, "The
 L 152 Supreme Court has spoken." The Supreme
 L 153 Court speaks all the time. But this is a gov-
 154 ernment, not the army. The Supreme Court
 155 may speak—but the Constitution intends
 156 that if the people care enough, the option
 157 of amendments gives them the last word.

L 158 Adding a new provision to the Constitu-
 159 tion to reject a court decision—as the
 160 Eleventh Amendment did in 1798—can at
 L 161 least slow a Supreme Court down.
 162 Because the Constitution came from "We
 163 the People," why should not the people
 164 through their elected representatives par-
 165 ticipate more often in the process of con-
 166 stitutional change? Especially when the
 167 document itself—which does not even
 168 mention interpretation by judges, much
 169 less give judges the last word—spells out a
 170 precise and simple amending procedure
 171 for the people to use? Why shouldn't there
 172 be amendments to make corrections when
 173 the Supreme Court gets it wrong—or, no
 174 less appropriately, when the Court's read-
 175 ing of an old provision may seem accurate,

176 but the people on reflection decide that
 177 they no longer want such a rule? It is
 L 178 amazing that every time the Supreme
 L 179 Court issues some new constitutional
 180 interpretation that provokes a storm of
 181 public outrage—then nothing happens.

182 Correcting the Supreme Court is not
 183 even the most crucial issue. New needs
 184 develop that don't show up in Supreme
 185 Court decisions. Why shouldn't the people
 186 adopt constitutional solutions for perenni-
 187 al problems—for instance, uncontrollable
 L 188 extravagance by Congress, or federal
 189 power-creep, or war powers of the presi-
 190 dent—that seldom, if ever, come before
 191 the courts? Even for those who believe that
 192 the Supreme Court's job is to "keep the
 193 Constitution in tune with the times," it
 194 expects too much of the Court to act as the
 195 only corrective balance wheel of the gov-
 196 ernment.

197 Power lies with whoever can change the
 198 Constitution. Court decisions can be over-
 199 ruled by amendments, and when there is
 200 contrary consensus, they ought to be.
 201 More important, constitutional updating is
 202 not the assignment of the Supreme Court,
 203 but rather the duty of Congress and the
 204 states. Constant abdication of the amend-
 205 ing power was never expected, and in a
 L 206 representative government makes no
 207 sense.

208
 209 The Constutution does not come to us,
 210 as foes of amendments imply, in an

211 undefined condition. True, there have been
 212 few formal amendments over 200 years,
 213 but there has been plenty of change in the
 214 Constitution. In fact, although custom
 215 speaks of "the Constitution" as if there is
 216 only one, the reality is that this country has
 217 had several. We live in 1995 under the
 218 fourth constitution of the United States.

219 The first constitution, adopted in 1778
 220 by 11 sovereign governments, resembled a
 221 treaty, and appropriately was called Arti-
 222 cles of Confederation. It created a loose
 223 alliance of Independent states—that is,
 224 countries—designed mainly to pursue a
 225 united front in a war. The national organi-
 226 zation's few activities operated by unani-
 227 mous consent, which meant it operated
 228 very little. Each of the 13 governments
 229 remained Independent to set its own tar-
 230 iffs, raise its own taxes and armies, print
 231 its own money, and govern its internal
 232 affairs. Still, the Articles of Confederation
 233 were not a total failure. After the British
 234 decided to cut their losses and quit, the
 235 main complaint about life under the Arti-
 236 cles was that state tariffs and trade barriers
 237 in Independent economies were strangling
 238 each other. A NAFTA of its time was need-
 239 ed.

240 The congress created by the Articles
 241 authorized delegates to meet in Philadel-
 242 phia in 1787 to propose amendments to the
 243 Articles of Confederation. The first thing
 244 the delegates did was exceed their authori-
 245 ty. They began by junking the Articles and

246 starting over to design a national govern-
 247 ment that would exist in addition to those
 248 of the states.

249

250 The result was the Constitution of 1787,
 251 which became operational in 1789.

252 The purpose of the document was not to
 253 provide a code of laws, secure human
 254 rights, or solve all problems, but rather to
 255 set up—"constitute"—a new government.

256 It contained a handful of specific prohibi-
 257 tions on Congress (like taxing exports) and
 258 the states (like levying tariffs). But mostly
 259 it outlined an organization chart and allo-
 260 cated powers between the national govern-
 261 ment and states, and among the three
 262 branches of the national government.

263 Two subjects consume most of the Con-
 L264 stitution. The first was, what powers
 265 would the national government have? All
 266 agreed that, quite unlike the states, it
 267 should not have general legislative powers,
 268 but instead would be allowed to act only
 269 on topics the Constitution assigned to it.
 270 Just to nail that down, 10 amendments
 271 were promptly proposed and adopted,
 272 called the Bill of Rights. These were not
 273 really a list of rights of individuals (they
 274 left the power of state governments unre-
 L275 strained), but rather they were some
 276 important specific examples of what the
 277 federal government had not been empow-
 278 ered to do—like abridge the freedom of
 279 the press, or quarter soldiers in people's
 280 houses. The enumeration ended up with

281 two directions on interpretation. The Ninth
 282 Amendment reminded that just because
 283 the federal government could not do these
 284 things did not imply that it was authorized
 285 to do others. The Tenth Amendment then
 286 reiterated that unless powers were delegat-
 287 ed by the Constitution to the federal gov-
 288 ernment, or prohibited to the states, they
 289 all remained with the states or the people.
 290 The other focus at Philadelphia was the
 291 internal arrangements of the national gov-
 292 ernment itself—such issues as how Con-
 293 gress would be formed and chosen (a Sen-
 294 ate chosen by states and a House by peo-
 295 ple), the addition of a national executive,
 L296 and how the limited national powers
 297 would be divided among the Congress, the
 L298 President, and the judiciary—which
 L299 Hamilton called “the least dangerous
 300 branch.”

301
 302 The Constitution of 1787, typical of
 L303 many hard-negotiated agreements,
 304 swept under the rug two potentially con-
 305 tentious issues that everyone hoped might
 306 go away: first, whether states that entered
 307 the new union could withdraw if they did
 308 not like it; and second, slavery, which the
 309 framers chose not to mention by name and
 310 not to deal with except to give a 20-year
 311 protection to the slave trade and require
 312 the return of fugitive slaves.

313 Unfortunately, over time each of those
 314 unresolved issues played into the other,
 315 and finally with the election by a minority

316 of an extremist president in 1860, the 1787
 317 structure dissolved into a contest of arms.
 318 Whether states legally could withdraw—
 319 some like Massachusetts and South Car-
 320 olina had claimed the right for years—was
 321 a question incapable of any sure answer
 322 from logic, history, or reading the text of
 323 the Constitution. And it was never submit-
 324 ted to the Supreme Court. Instead, dis-
 325 proving once again the canard that wars
 326 never settle anything, it was decisively
 327 resolved by soldiers killing each other.

328 The Civil War led to the third constitu-
 329 tion of the United States. Although this
 330 constitution wears the more modest label
 331 of the Fourteenth Amendment, it turned
 332 out to be a whole new arrangement of gov-
 333 ernment. Adopted in 1868 with the forced
 334 consent of defeated Southern states, the
 335 Fourteenth Amendment in ringing and
 336 undefined words forbade any state to deny
 337 equal protection of the laws, or to deprive
 338 anyone of life, liberty, or property without
 339 due process of law. In the end those ring-
 L340 ing and undefined words drastically
 341 revised the roles of the states and the fed-
 342 eral courts.

343 For the rest of the 19th century and into
 344 the next, this new provision was trans-
 345 formed by the Supreme Court into a shield
 346 for businesses from state regulation. With
 347 each decade the sweep of the Fourteenth
 348 Amendment got bigger and bigger. It was
 349 read to forbid states from, for example,
 350 requiring attendance at public schools, or

L351 limiting maximum hours of work. It
 352 became a charter for judges, citing only
 353 the Constitution's phrase "due process," to
 354 invalidate whatever laws they believed
 355 unwise.

356 Still, the limited scope of activities for
 357 the national Congress that had been enu-
 358 merated and confined in 1787 tended to
 359 remain. A few controversies had arisen
 360 early—such as establishing the Bank of
 361 the United States (opposed on constitu-
 362 tional grounds by Madison), whether the
 .L363 Constitution authorized purchasing
 364 Louisiana, and Monroe's plans for federal
 365 road-building. But in spite of occasional
 366 pushing of the envelope of Congress's
 367 spending power, the government in Wash-
 368 ington generally left it to the states to reg-
 369 ulate most matters affecting people's daily
 370 lives, and did not find reason to read too
 371 expansively its powers listed in the 1787
 372 Constitution.

373 In the 1930s, the country was hit by the
 374 Depression and the national government
 375 became much more radical and active. The
 376 Supreme Court promptly reminded Con-
 377 gress of its limited legislative role, holding
 L378 that one New Deal law after another
 379 exceeded its powers to tax, spend, or regu-
 380 late commerce.

381
 382 Then all of that changed. The Roosevelt
 383 administration decided to deal with
 L384 the Constitution's restrictions not by
 385 amendment, but as a personnel matter.

L386 Franklin Roosevelt first threatened to
 L387 expand the Supreme Court from nine
 388 judges to as many as fifteen, then found he
 389 did not need to. From 1937 to 1941 he
 390 appointed seven new justices, all of them
 391 devoted New Dealers. Their opinions held
 392 that, for example, Congress's power to
 393 regulate interstate commerce was so far-
 394 reaching that it could prohibit a farmer
 395 from growing a patch of wheat for his own
 396 bread. The limitations on the powers of the
 397 federal government suddenly seemed to
 398 evaporate.

L399 A fourth constitution thus emerged
 400 when the Supreme Court by the end of the
 401 1930s brushed aside the doctrine of enu-
 402 merated powers, which had limited Con-
 403 gress by requiring reasonably clear grants
 404 of authority in the Constitution. The Court
 405 about the same time also renounced "due
 406 process" as a restriction on state or federal
 407 legislation. Then, having demolished all
 408 those barriers to regulation, the Court for
 409 the rest of the 20th century began erecting
 410 hurdles of a different kind by interpreting
 411 the of Bill of Rights more expansively and
 412 reading the Fourteenth Amendment to
 L413 limit the states in novel ways. It
 L414 announced that the 1868 Fourteenth
 L415 Amendment without saying so had
 416 stripped the states of virtually all the pow-
 417 ers that the 1791 Bill of Rights had said
 418 were outside the charter of the federal gov-
 419 ernment. It also held suddenly in 1964 that
 L420 the Fourteenth Amendment had made

421 unconstitutional all houses of state legisla-
 422 tures that, like the U.S. Senate, were not
 423 based on equal population. By the end of
 424 the century the Supreme Court had begun
 425 invoking "due process" again, but this time
 426 to invalidate laws it concluded unduly lim-
 427 ited personal liberty.

428 Under the fourth constitution, which
 429 emerged from the FDR Court, Congress
 430 could do what it wanted as long as it did
 431 not violate new prohibitions discovered in
 432 and around the Bill of Rights. At the same
 433 time the Fourteenth Amendment, read to
 434 include both this expanded Bill of Rights
 435 and a tighter requirement of equal protec-
 436 tion of the laws, limited state governments
 437 in new ways. The Supreme Court spent its
 438 time figuring out the scope of Bill of
 439 Rights restrictions instead of worrying
 440 about where Congress got the power in the
 441 first place.

442
 443 Skeptics correctly can point out that for
 444 more than 200 years the authorized
 445 amendment process has scarcely been
 446 used at all. Even the official number of
 447 amendments—27—overstates both fre-
 448 quency and impact. The first 10, the Bill of
 449 Rights, were a single exercise almost con-
 450 temporaneous with the original Constitu-
 451 tion, and had been promised as a condition
 452 to reassure nervous votes needed for ratifi-
 L 453 cation. Nearly half the others simply
 454 expanded the franchise, step by step pro-
 455 hibiting restrictions based on such charac-

456 teristics as race, sex, extended adoles-
 457 cence, or living in the District of Colum-
 458 bia. Most of the remainder were house-
 459 keeping details, like the date the president
 460 is chosen, or presidential disability. The
 461 most significant in altering the balance of
 462 governmental power, except for the Four-
 463 teenth Amendment, were the Sixteenth
 464 and Seventeenth amendments of 1913,
 465 which authorized Congress to tax incomes
 466 directly, and took away from state legisla-
 467 tures the power to choose senators and
 468 gave it directly to the voters.

469 But even though the formal amendment
 470 process mostly has left the 1787 forms of
 471 government alone, the Supreme Court
 472 since the Civil War often has sat as what
 473 resembles a nine-member continuing con-
 474 stitutional convention, reading and reread-
 475 ing the unchanging language in new and
 476 changeable ways.

477

478 So the Framers did not think their Con-
 479 stitution was too good to amend, and
 480 the Supreme Court amends it all the time.
 481 Why not leave it at that? Because enacted
 482 amendments can supply omissions, revise
 483 or repeal outmoded provisions, correct
 484 misinterpretations, and deal with totally
 485 new needs.

486 The concerns of the new 104th Congress
 487 ought to be first to decide which issues are
 488 important enough to write into the funda-
 489 mental law, and second whether that can
 490 be done with clear enough language to

491 keep—or at least slow down—the courts
 492 from twisting new amendments to mean
 493 something different from what was intend-
 494 ed. No member of Congress ought to
 495 underestimate what judges can do. In
 496 1964, for example, Congress passed the
 497 landmark Civil Rights Act, which prohib-
 498 ited discrimination in employment based
 499 on race, creed, color or sex; nevertheless,
 L 500 by 1979 five Supreme Court justices
 501 unblushingly held that Congress really had
 502 meant to permit racial preferences.

503 President Clinton, not wanting to be left
 504 out of the doings of the 104th Congress,
 505 announced with fanfare a few weeks ago
 506 that he would not oppose a balanced-bud-
 L 507 get amendment. It is a beauty of the
 508 amending process, however, that what the
 509 president thinks does not really matter.
 510 The Constitution leaves the president out.
 511 Amendments originate by two-thirds vote
 512 in Congress (or in a convention that Con-
 513 gress is supposed to call if two-thirds of
 514 the states request it); they are ratified by
 515 three-quarters of the states (legislatures or
 516 conventions). The President is not a play-
 517 er.

518 An even greater beauty is that amend-
 519 ments are the most permanent kind of law-
 L 520 making. True, they can always be
 521 repealed—as the “wets” in 1933 repealed
 522 the 1919 Prohibition amendment—but that
 523 is not so easy to do as simply amending a
 524 statute by passing a new law, or switching
 525 one House rule for another. Amendments

526 remain unless there is consensus for the
527 double supermajorities needed to change
528 them. They can always be construed to
529 death by hostile courts, but that is less like-
530 ly if language is clear and objectives are
531 narrow and precise.

532 The corrections most needed in the Unit-
533 ed States government's third century are
534 structural. And structural repairs are par-
535 ticularly appropriate for handling at the
536 constitutional level.

537 Congress, for instance, has demonstrat-
538 ed for decades that institutionally it cannot
539 muster the discipline to restrain excessive
540 spending. Lately, ashamed to speak the
541 name, it even pretends that most expendi-
542 tures are something else, labeling them
543 "entitlements." Presidents no longer refuse
544 to spend excessive appropriations. A bal-
545 anced-budget amendment may be a chal-
546 lenge to express in words, but it is not
547 impossible, and it is certainly not, as Sen-
548 ator Chris Dodd asserts, "very irresponsi-
549 ble." It imposes a new constitutional oblig-
550 ation on Congress without micromanaging
551 the policy choices for achieving it. It is not
552 likely to make the situation worse, even if
553 courts will be invited to construe it. And if
554 experience suggests improvements, those
555 can be added.

556 As for the line-item veto, it would sim-
557 ply restore the power that presidents exer-
558 cised, with healthy results, prior to the
559 Budget and Impoundment Act of 1974,
560 after which the deficit began to skyrocket.

561 Together, the two changes present a good
L 562 chance for permanent constitutional
563 improvement. Yet the Contract With Amer-
564 ica is timidly promoting the line-item veto
565 as merely a law. Why, when a law is just
566 something a different Congress in a few
567 years could repeal? Why not amend the
568 Constitution to settle this?

569 Another 1995 Innovation is the House's
570 new requirement that bills to raise taxes
571 fail unless they get a three-fifths majority.
572 This was adopted on the new House's first
573 day—but only by internal House rule. The
574 House of Representatives adopts new rules
575 every two years, and anyone who believes
576 that every Congress for the next hundred
577 years will look like the 104th also leaves
578 loose teeth under his pillow. It takes no
579 legal genius to find the words. Why not, if
580 they are serious, write such a salutary
581 restraint into the Constitution?

582 None of this means that the beauty of
583 amendments can be beheld from only a
584 particular political viewpoint. For exam-
585 ple, liberals for a generation now have
586 grumbled about the Second Amendment's
587 very explicit guarantee of "the right to
588 keep and bear arms." That right was not
589 insignificant if you lived beyond the Blue
590 Ridge in 1791 and the Indians were in the
591 habit of visiting to scalp your children and
592 when national defense consisted of state
593 militias. Its current necessity seems less
594 compelling. But instead of trying to per-
595 suade some court to hold that the Second

596 Amendment is outdated or doesn't mean
 597 what it says, why not simply amend it out
 598 of existence? And if such an amendment
 599 will not carry, then that's democracy.

600

601 All of which is not to say that every
 602 passing passion ought to be made part
 603 of permanent law, or that the existing
 604 structure ought to be greatly changed. Jef-
 605 ferson surely overstated when he mused
 606 that a revolution every 20 years might be a

607 good thing. It is said that a Parisian once
 608 asked a bookseller for a copy of the French
 609 constitution, and was told that the store did
 610 not handle periodical literature.

611 There are two kinds of amendments.
 612 Some are broadly and vaguely worded,
 613 and therefore pass the buck to courts. Oth-
 614 ers are direct, detailed, and specific
 615 enough to settle the matter at hand. Nearly
 616 all the amendments since 1791 have been
 617 specific. The few amendments producing
 618 uncertainty and extended litigation have
 619 been the open-ended variety (the Bill of
 620 Rights and the Fourteenth Amendment).
 621 Additions of that sort are to be avoided.
 622 Specific purposes call for specific words.

623 There is no evidence that detailed
 624 amendments on particular subjects do not
 625 work. They may not be ringing and ele-
 626 gant, but the more precise and detailed
 627 they are, the less meddling room they
 628 leave to courts, and the better they work.
 629 The Sixteenth Amendment, for example,
 L630 authorized Congress to tax incomes.

631 Whatever one may think of its policy, it
632 resolved the point. That was that. Similar-
633 ly, we do not have to wonder about what
634 day the president is sworn in, or who suc-
635 ceeds him if he is disabled. It is actually
636 possible to settle some things.

637 Like diamonds, amendments should be
638 simple. But they do not have to be forever
639 if they do not turn out well. The Eigh-
640 teenth Amendment established Prohibi-
641 tion—maybe not an effective policy, but at
642 least it was clear. And when the country
643 changed its mind in a new amendment
644 fourteen years later, that too was entirely
645 plain. There is nothing wrong with try-
646 ing—or with repealing or amending what
647 doesn't work.

648 The kind of amendments to avoid are the
649 unspecific broad-principle declarations,
650 full of vague and general purposes that
651 simply add to the power—as well as to the
652 burden—of courts. The best are those that
653 take up a particular point and settle it—for
654 example, the term limit on presidents.
655 Consider, for example, the Nineteenth
656 Amendment, which in straightforward
657 terms granted women's suffrage, and
658 which was quickly ratified by three-quar-
659 ters of the states in only 14 months. In con-
660 trast, the equal-rights amendment pro-
661 posed by Congress in 1972 languished for
662 years and finally failed, mainly because no
663 one could say for certain what courts
664 would puzzle out of a directive that
665 "equality of rights under the law shall not

666 be denied or abridged . . . on account of
667 sex."

668 Unfortunately, modern Congresses in
669 their lawmaking have picked up the habit
670 of dealing with contentious issues by
671 enacting generalized do-good senti-
672 ments—protect the environment, help the
673 disabled—leaving for the bureaucrats and
674 interest groups to fill in what it all really
675 means. That habit of equivocation is not
676 suitable for writing constitutional amend-
677 ments.

678
679 A final reason for Congress not to flinch
680 is that if Congress is too cautious, the
681 states could demand a convention to
682 change the whole thing. The Constitution's
683 amendment article includes two methods .
684 The almost forgotten route lets two-thirds
685 of the state legislatures request that Con-
686 gress call a national convention to propose
687 amendments, which could mean writing a
688 whole new constitution. If such a request
689 is made, the Constitution says, Congress
690 "shall" grant it. That has never happened,
691 but it could, and if Congress flouted its
692 duty to call one, the states might have a
693 convention anyway—which could then
694 take control and draft a new constitution.
695 Better to make use of the ordinary amend-
696 ing process, to target precisely the prob-
697 lems and try to solve them in a more per-
698 manent way.

699 Most real political revolutions have left
700 their lasting traces on the Constitution.

701 The Republicans after the Civil War
702 secured the three amendments that ulti-
703 mately ended racial inequality under law,
704 and turned out to do far more. The pre-
705 World-War-I Progressives, while they
706 were democratizing state governments,
707 also switched control of the Senate to the
708 people, gave the federal government the
709 tax base to grow, and soon afterwards
710 helped secure the vote for women. The
711 New Deal even brought new access to
712 liquor while rewriting the Constitution by
713 restaffing the Supreme Court.

714 The time will never be better to update a
715 marvelous and rightly cherished docu-
716 ment, perhaps to correct some mistakes in
717 how it has been interpreted, but most
718 important to readjust its balances to fit the
719 needs of a new century. Its authors would
720 have expected no less.

Nos. 93-1456 and 93-1828

**In the
Supreme Court of the United States
October Term, 1994**

**U.S. TERM LIMITS and WINSTON BRYANT,
in his official capacity as Attorney General,
*Petitioners,***

v.

**RAY THORNTON, et al., and BOBBIE E. HILL, et al.,
*Respondents.***

**On Writ of Certiorari to the
Supreme Court of Arkansas**

**BRIEF AMICUS CURIAE
OF CITIZENS FOR TERM LIMITS
AND PACIFIC LEGAL FOUNDATION IN
SUPPORT OF PETITIONERS, WINSTON BRYANT
AND U.S. TERM LIMITS**

INTERESTS OF AMICI CURIAE

The interests of amici curiae are set forth in the preceding motion and are adopted herein.

original). Justice Cracraft then properly examined the initiative in light of the First and Fourteenth Amendments (citing *Anderson* and *Burdick*). He found it "not constitutionally infirm in any respect." *Id.* The importance of analyzing Amendment 73 as a ballot access measure cannot be understated. The decisions of this Court analyzing ballot access measures under the First and Fourteenth Amendment have established a framework under which provisions such as Amendment 73 can be easily upheld. See *Legislature v. Eu*, 54 Cal. 3d 492, 816 P.2d 1309; *Miyazawa v. City of Cincinnati*, 825 F. Supp. 816 (S.D. Ohio 1993).

III

EXPERIENCE HAS SHOWN THAT BALLOT ACCESS RESTRICTIONS APPLIED TO LEGISLATIVE INCUMBENTS DO NOT DESTROY REPRESENTATIVE GOVERNMENT

When the People of California enacted Proposition 140, the Political Reform Act of 1990, the state Legislature was sure the world was ending. Proposition 140 imposed absolute term limits on all members of the California Legislature as well as the executive constitutional officers. In addition, Proposition 140 substantially reduced legislative spending and eliminated the legislative retirement plan. Naturally, California legislators proclaimed the end of effective legislative governance.

The California experience is particularly analogous to what Congress can expect as more and more incumbents are subject to ballot access restrictions or term limits. California is the nation's largest state in terms of population, budget, natural disasters, and social problems (including immigration, race riots, and so forth). California has a highly professionalized Legislature, complete with legions of staff members to assist with both policy and political issues. Also, California has operated for the past 12 years with a

Republican governor and a Democratic Legislature—a circumstance not unknown in Washington, D.C.

In the four years since term limits were enacted and upheld by the California Supreme Court (*Legislature v. Eu*, 54 Cal. 3d 492), positive effects already have been felt throughout the state. One of the primary goals of term limits—to increase the competition level of elections—has arrived with gusto.

There are 80 seats in the California Assembly (the lower house). Of the 80 members who served in 1992, 24 will not be running for the same seat in 1994. Note that this is before any Assembly member is required to leave under the terms of Proposition 140 in 1996. Of those 24 members leaving the Assembly, 10 are seeking statewide office this year, 5 are seeking state Senate seats, 1 is a candidate for a Superior Court judgeship, and 1 is running for Congress. Others are returning to the private sector or other state and local government agencies. *Election '94: Assembly*, 25 Cal. J. 36-45 (May 1994).

There are 40 members in the California Senate. Senators serve staggered terms, with half of the seats up for election every two years. With the exception of one Senator who switched districts to finish out the term of a Senator who had been convicted of corruption, and who will be term limited out of office this year, other Senators will not face the term limits until 1998. Nevertheless, nine Senators have left the Senate this year. Four are seeking statewide office and one has gone to Congress. Interestingly, the movement between the Assembly, Senate, and Congress has not been all one way. Former California Congressman Tom Campbell returned to the California Legislature when state Senator Rebecca Morgan resigned to chair "Joint Venture," an entrepreneurial organization in Silicon Valley, and Representative Campbell lost the 1992 primary for a United

States Senate seat. *Election '94: State Senate*, 25 Cal. J. 31-35 (May 1994).

There are a number of lessons to be drawn from California's experience so far. First, just because legislators may no longer run for the same seats they have held for years does not necessarily mean the State of California will be deprived of their expertise in state government. On the contrary, there has been far greater interest on the part of legislators in statewide offices and other legislative seats. Term limits has not thrust those experienced legislators who still retain significant public support into political oblivion; rather, term limits has opened new opportunities for these legislators to serve the state in different capacities. Former Assembly members have relinquished their seats to run for state controller, state superintendent of public instruction, a superior court judgeship, State Board of Equalization, state Insurance Commissioner, Secretary of State, Attorney General, Lieutenant Governor, and of course, the state Senate. One former Assembly member is also running for Congress. Among the retiring state Senators, several entered primary elections for the offices of Governor, State Board of Equalization, state Treasurer, state Insurance Commissioner, and Lieutenant Governor. One is running for a seat on the Orange County Board of Supervisors. Scott, *Election '94: Governor*, 25 Cal. J. 8 (May 1994); Pollard, *Election '94: U.S. Senate*, 25 Cal. J. 11 (May 1994); Barber, *Election '94: Insurance Commissioner*, 25 Cal. J. 13 (May 1994); Borland, *Election '94: Lieutenant Governor*, 25 Cal. J. 16 (May 1994); Scott, *Election '94: Treasurer*, 25 Cal. J. 16 (May 1994); Starkey, *Election '94: Secretary of State*, 25 Cal. J. 17 (May 1994); Starkey, *Election '94: Attorney General*, 25 Cal. J. 18 (May 1994); Pollard, *Election '94: Superintendent of Public Instruction*, 25 Cal. J. 18 (1994).

Second, term limits has created more competitive elections. In the 1994 primaries, incumbent candidates faced numerous challenges. For example, for more than 20 years

the Westside area of Los Angeles was completely controlled by the political organization headed by Howard Berman and Henry Waxman. Legislators handpicked by the Berman-Waxman machine tended to stay in office forever—or until a demographically friendly congressional seat opened up. However, facing term limits in 1996, the three Assembly Democrats representing this area gave up their seats to run for statewide offices. In the June, 1994, primary, 22 Democratic and 5 Republican candidates vied for the privilege of serving Westside voters. The Berman-Waxman organization remained largely silent throughout the primary season. This silence may be the harbinger of a corollary benefit: the dismantling (or at least the lessening of significance) of political machines. Hill-Holtzman, *Seating Now Available: It Used to be That the Only Route to a Westside Assembly Job Went Through the Berman-Waxman Machine. Not Anymore*, Los Angeles Times, May 8, 1994, at J12. With California's 120 state legislative seats, 54 congressional seats, dozens of statewide offices (including administrative agencies), and literally hundreds of local government positions available, politicians who cannot bear the thought of working in the private sector have many other options available to them. Similarly, members of Congress who must run for reelection as a write-in candidate will consider the myriad opportunities otherwise available in public service. A change in scenery provides the growth and depth of experience that should be required of all lawmakers.

Third, the increased number of open seats has presented strong opportunities for women and minorities to make gains in their electability. Voters elected 16 men and 12 women in 1992, bringing the number of women in the Assembly to an all-time high of 22. The six Latinos elected in 1992 increases their numbers in the Assembly to seven from the previous high of four. The one new African-American elected in 1992 maintained the number of blacks in the Assembly at seven. The Class of 1992 also included the first Asian-American elected to the Legislature in 14

years. The 8 ethnic minority members elected to the Assembly compares to just 2 in the 24-member class elected in 1982. Weintraub, *After the Elections, State Assembly: 28 Newcomers Bring a Sense of Purpose*, Los Angeles Times, Nov. 8, 1992, at A3.

Fourth, the legislators elected under term limits are not complete political novices. Most have political experience in local government or community projects. For example, of the eight freshman in 1992 designated as the best of the class by the California Journal, one is a former community college trustee, two are former mayors, one is a former vice-mayor, one is a former deputy county counsel, two are attorneys (one of whom spent some time as a lobbyist), and one is a former sheriff. Block, *The Term-Limit Babies' First At Bat*, 25 Cal. J. 8 (June 1994). Many other members, although not active in local politics, bring to the Legislature real-life experiences in every facet of California society. For example, the Class of 1992 contained a home builder, a retired U.S. Air Force fighter pilot, a school teacher, an interior designer, an insurance company executive, and the owner of a chain of video stores. *Id.*

Finally, new faces in the Legislature do not diminish that body's ability to perform its lawmaking function. Even though the 1992 elections brought the highest number (32) of freshman legislators since 1978 (the year of the Proposition 13 tax revolt), the 1993 Legislature was hailed as one of the most productive in years. Skelton, *Legislators Try Something New: Action*, Los Angeles Times, Sept. 13, 1993, at A3. Moreover, the front page of the *Los Angeles Times* announced that "the California Legislature's 1993 session so exceeded the expectations of those trying to fix the battered economy that it is being described as a watershed in the state's posture toward business." Woutat, *State's Help for Business Seen as Watershed Shift*, Los Angeles Times, Sept. 13, 1993, at A1. The infusion of new legislators helped break the gridlock that has paralyzed the California

Legislature, leading to a promising new trend that should be replicated in Congress.

CONCLUSION

For the reasons stated herein, the decision of the Arkansas Supreme Court as it relates to congressional incumbents should be reversed. Amendment 73, which limits ballot access to multiterm congressional incumbents, does not impose any new qualifications that contradict the qualifications set forth in Article I, Sections 2 and 3, of the United States Constitution. Any multiterm incumbent may serve if elected by write-in or if appointed to the seat. The ballot access restrictions on multiterm incumbents should be analyzed under the same framework as any other ballot access restriction. Under this framework, Arkansas' Amendment 73 should be upheld in its entirety.

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Respectfully submitted,

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Mr. CANADY. Mr. Mann.

**STATEMENT OF THOMAS E. MANN, DIRECTOR,
GOVERNMENTAL STUDIES, THE BROOKINGS INSTITUTION**

Mr. MANN. Thank you, Mr. Chairman.

I am old fashioned, maybe even conservative when it comes to the Constitution. I think it is unwise to try to achieve today's policy objective or respond to yesterday's public anger by amending our founding document. I think the burden of proof—for diagnosing the problem and demonstrating that the cure is likely to work without debilitating side effects—rests with the proponents of changes in the Constitution.

And what I have to tell you, having spent many, many months weighing the evidence that is available, I have come to the conclusion that whatever evil term limits are designed to counter, be it careerism or the advantage of incumbency, unaccountable power, overspending, the evidence suggests the consequences are not going to produce the outcomes desired by the adherents and may well give us consequences that could be quite harmful to the political system.

I have been trying to engage Mr. Inglis in a conversation for a long time. I keep following him to the hearings. He makes an argument that I think is typical of the arguments of the supporters: that a permanent Congress fosters a culture of overspending. What I have to tell you is that sentence makes no sense. A, there is no permanent Congress, and B, there isn't a shred of evidence, as Professor Kesler has just demonstrated, that time in office is strongly associated with propensity to spend.

Therefore, it is a myth, by and large. What it is, as Mr. Frank pointed out in his questioning of Mr. McCollum this morning, a basically antidemocratic move. It goes completely contrary to the notion of James Madison who said: "We cannot deny ambition, we have to channel that ambition to serve the larger public purposes."

I look at the 1994 election, as all of you have, and I say, can anyone viewing the results doubt the power of the people's vote to transform Capitol Hill? One party dominance of the House of Representatives, which was a long-term problem in this Congress, was addressed rather dramatically.

Membership turnover, incumbent reelection rates, incumbent margins of victory, all give clear indications that the people have it within their power to make a difference. In fact, my suggestion is the term limits supporters declare victory and withdraw, following the advice of Senator Aiken many years ago in a different context, because in many respects, they have succeeded in their most admirable objectives.

Voters are less passively supportive of their incumbent and more inclined to throw the rascals out. Candidates are increasingly self-limiting their own terms, opting as incumbents to leave earlier and as challengers to promise to spend only a short period of time. And House reformers have taken substantial steps to curb the automatic advantages of incumbency.

What public purpose would have been served after the 1994 election if the new Republican majority in the House had been denied the leadership of Newt Gingrich, Dick Armey, Henry Hyde or John

Kasich. It seems to me to fulfill its constitutional responsibilities, Congress needs institutional memory, experience, knowledge, and wisdom, as well as regular infusions of new Members with fresh ideas willing to challenge old ways of doing business. That is precisely the mix that exists in the present Congress.

I believe you would do a great disservice to American democracy by denying the possibility that future Congresses might not also benefit from that mix.

Angry populism is all the rage these days. We even have our own version of "Bethesda populists." It is not hard to stir up resentment against elites and attract overwhelming popular support for punitive measures directed against Members of Congress. In fact, I think the easy thing for you to do is give the public what it appears to want and send a constitutional amendment limiting terms to the States.

Indeed, most of you won't be affected by this, since the clock would almost certainly not begin to run until the amendment is ratified by the States. But before doing so, I urge you to take seriously the charge given to you by James Madison: "To refine and enlarge the public views," to use your wisdom to reject "temporary or partial considerations" and act in the long-term interests of the people.

I sincerely hope you resist the term limits passion and let the grand drama now being directed by our citizens continue.

Thank you.

Mr. CANADY. Thank you, Mr. Mann.

[The prepared statement of Mr. Mann follows:]

PREPARED STATEMENT OF THOMAS E. MANN, DIRECTOR, GOVERNMENTAL STUDIES,
THE BROOKINGS INSTITUTION

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify on the question of whether terms of members of the United States Senate and House of Representatives should be limited. During the last several years, as part of a larger project on congressional reform, I had an opportunity to review and assess the case for term limits. My findings were originally presented to this committee in 1993 and subsequently revised and published as "Congressional Term Limits: A Bad Idea Whose Time Should Never Come" in *The Politics and Law of Term Limits* (Cato Institute, 1994). A copy of that essay is attached.

I have an old-fashioned, indeed conservative view of the Constitution. I believe it is unwise to try to achieve today's policy objective or to respond to yesterday's public anger by amending our founding document. The burden of proof—diagnosing the problem and demonstrating that the cure is likely to work without debilitating side effects—properly falls on those who would alter the constitutional order. My analysis in the attached essay leads to the conclusion that term limits proponents have failed to make a convincing case connecting the remedy with a set of problems. Whatever evil term limits are designed to counter—careerism, incumbency advantage, unaccountable power, overspending—the evidence I have been able to weigh suggests the actual consequences are likely to be far different and potentially harmful to our political system.

I believe the results of the 1994 elections strongly support my position that congressional term limits are neither necessary nor desirable for the healthy functioning of our democratic system. It would be a supreme irony if term limits were adopted at the very moment that Republicans have finally grasped the reins of power in Congress. Can anyone viewing the results of the election doubt the power of the people's vote to transform Capitol Hill? One of the most serious shortcomings in our national political arrangements—one-party dominance of the House of Representatives—was dramatically addressed without need of any fundamental change in our constitutional arrangements. Membership turnover in the last two elections, from both voluntary retirements and electoral defeats, has been substantial, dispelling any notion of a permanent Congress. Incumbent reelection rates and margins of vic-

tory in 1992 and 1994 were low enough to encourage future challengers and put fear in the hearts of members of the Senate and House who seek reelection. More can be done through campaign finance reform to level the playing field between incumbents and challengers.

In many respects term limits advocates have already succeeded in their most admirable objectives. Voters are less passively supportive of their incumbent and more inclined to "throw the rascals out." Candidates are increasingly self limiting their own terms, opting as incumbents to leave earlier and as challengers to promise to spend only a short period of time in public life. And House reformers have taken substantial steps to limit the automatic advantages of seniority. All of this has been accomplished through the political marketplace, without the imposition of arbitrary limits that come with considerable costs as well as potential benefits.

Imagine term limits having been in effect in 1994. What public purpose would have been served had the new Republican majority in the House been denied the leadership of Newt Gingrich, Dick Armey, Henry Hyde, or John Kasich? Would the country be better off and Congress more informed and effective if Bob Dole, Orrin Hatch, Pete Domenici, and Nancy Kassebaum were unable to help lead Senate Republicans in the 104th Congress? To fulfill its constitutional responsibilities, Congress needs institutional memory, experience, knowledge, and wisdom as well as regular infusions of new members with fresh ideas willing to challenge old ways of doing the people's business. That is precisely the mix that now exists in the present Congress. I believe you would do a great disservice to American democracy by denying the possibility that future Congresses might also benefit from that mix.

Angry populism is all the rage these days. We have even bred our own inside-the beltway version of "Bethesda populists." It is not hard to stir up public resentment of elites and attract overwhelming public support for measures that appear to punish members of Congress. The easy thing for you to do is give the public what it appears to want and send a constitutional amendment limiting congressional terms to the states. (Most current members would not be affected personally since the term limits clock would almost certainly not begin to run until a constitutional amendment is ratified by the states.)

Before doing so, you ought to take seriously the charge given you by James Madison "to refine and enlarge the public views," to use your wisdom to resist "temporary or partial considerations" and act in the long-term interests of the people. I sincerely hope you resist the term limits passion and let the grand drama now being directed by our citizens continue.

From: The Politics and Law of Term Limits

Edward H. Crane and Roger Pilon, Eds.
Cato Institute

6. Congressional Term Limits: A Bad Idea Whose Time Should Never Come

Thomas E. Mann

In the last several years term limits have become the preferred vehicle for expressing public frustration and anger with the political system. Citizen initiatives to limit congressional terms have succeeded in all fifteen states where they were on the ballot, most by overwhelming margins. Numerous state and local jurisdictions have voted to limit the terms of their legislators. Public opinion polls reveal overwhelming popular support for term-limits proposals. If our Constitution could be amended by national initiative, I have no doubt that term limits would soon be enshrined in the fundamental charter of our democracy.

Fortunately, however, we enjoy a representative system of government that requires a level of deliberation before our basic democratic rules can be altered. We are forced to stop and think before acting. Precious little reasoned discussion has accompanied the debates over term limits in the states. Advocates have skillfully tapped the reservoir of public distrust of politicians and stimulated visceral reactions in favor of term limits. Opponents of term limits have largely abdicated their responsibility for joining the debate. Many politicians, fearful of arguing against a proposal that appears to enjoy such broad popular support and of embracing a position that is transparently self-serving, have removed themselves from the fray, trusting that one way or another the term-limits movement will be stopped before its objective is achieved. This myopia has produced a one-sided debate and increased the probability that term limits will someday soon be applied to members of Congress.

I welcome a thoughtful public discussion of congressional term limits—what they are designed to achieve, what their consequences

This paper is adapted from testimony prepared by the author for a November 19, 1993, hearing on congressional term limits before the Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, U.S. House of Representatives.

might be, and whether more effective remedies might be available for dealing with the problems identified by term-limits advocates. During this debate it is important to remember that the burden of proof—diagnosing the problem and demonstrating that the cure is likely to work without debilitating side effects—properly falls on those who would alter the constitutional order.¹ My view is that a persuasive case for term limits has not been made. What I intend to do here is review and assess that case, based on my reading of an extensive scholarly and popular literature as well as on my own research on congressional elections and congressional reform.

Careerism

The crux of the case for term limits is a rejection of professionalism in politics—or legislative careerism. Careerism is seen as fostering in members of Congress an exclusive focus on reelection and power and a devaluation of the public interest. Advocates see rotation as a way to cure these ills, by preventing a concentration of political power and enhancing government by amateurs—selfless citizens who temporarily answer their country's call to legislate in the public interest.² In support of this, they point to the extensive American experience with rotation in office as well as the philosophical underpinnings for rotation expressed in the founding period, particularly by the Antifederalists.³

Most advocates of term limits embrace a conception of democracy that is plebiscitary in character. This conception involves a series of related assertions: Representation is a necessary evil that works only if elected officials closely mirror the instincts and wishes of their constituents. Careerism breeds an arrogance among officeholders that insulates them from the concerns of the people. A permanent political elite turns a deaf ear on the citizens it is elected to serve and pursues its own self-interested agenda.

¹I believe the efforts to limit congressional terms by state initiative will be judged unconstitutional by the Supreme Court, necessitating a constitutional amendment to achieve the desired objective.

²John Fund and James Coyne, *Cleaning House: America's Campaign for Term Limits* (Washington, D.C.: Regnery Gateway, 1992).

³Mark P. Petracca, "Rotation in Office: The History of an Idea" in *Limiting Legislative Terms*, ed. Gerald Benjamin and Michael J. Malbin (Washington, D.C.: CQ Press, 1992), pp. 19-51.

However, one prominent proponent of term limits, George Will, argues that legislative careerism produces just the opposite effect: Risk-averse members hypersensitive to public sentiment and unwilling to exercise independent judgment.⁴ Will champions term limits as a means of restoring deliberative democracy; his compatriots in the movement prefer to empower the people and revitalize direct democracy. What unites them is a belief that citizen-legislators, by virtue either of their more accurate reflection of public sentiment or their wisdom, independently expressed and untainted by career considerations, will more faithfully pursue policies that term-limits proponents favor, which in most cases means a government that spends, taxes, and regulates less.

Since careerism or professionalism is the central malady term limitation is designed to cure, it is important that the several components of the professionalism critique be evaluated. Were the Founders truly sympathetic to mandatory rotation? Is professionalism damaging to our politics and policymaking? Is professionalism in government avoidable? Will term limits replace professionals with amateurs in Congress? Let me address each of these questions in turn.

Whatever the objections raised by the Antifederalists, the Constitution speaks clearly on the issue of mandatory limits. The Founders directly and unanimously rejected the idea of term limits.⁵ After much debate, they concluded that frequent elections would be a sufficient safeguard against abuse by incumbents. Indeed, their strategy was not to deny or negate personal ambition but to channel that ambition to serve the public interest. That required giving members a longer-term stake in the institution so that they might look beyond the public's immediate concerns and in Madison's words "refine

⁴George F. Will, *Restoration: Congress, Term Limits and the Recovery of Deliberative Democracy* (New York: The Free Press, 1992).

⁵In his recent testimony before the House Subcommittee on Civil and Constitutional Rights and in an affidavit on the constitutionality of a limit on congressional terms adopted by the state of Washington, Mark Petracca argued that members of the Constitutional Convention never had an opportunity to consider term limits because the measure was not reported out by the Committee on Detail. In point of fact, the Committee of the Whole considered the question of term limits for the legislature on June 12, 1787, and unanimously agreed to strike out the following words: "to be incapable of reelection for the space of [sic] after the expiration of their term of service and to be subject to recall." See Max Farrand, ed., *The Records of the Federal Convention of 1787* (1911; New Haven, Conn.: Yale University Press, 1966), vol. 1, p. 210.

and enlarge" the public view.⁶ Will argues rather lamely that a vastly changed political and social situation necessitates trying to restore core values of the Founders' generation by embracing measures that they deemed unnecessary. But Hamilton's words in 1788 ring true today:

Men will pursue their interests. It is as easy to divert human nature as to oppose the strong currents of selfish passions. A wise legislator will gently divert the channel, and direct it, if possible, to the public good.⁷

What can we say of the costs of professionalism to our politics? Critics of Congress routinely attribute everything they dislike about the institution to careerism. Careerists in Congress are said to be more corrupt, more beholden to special interests, more consumed with pork barrel-projects, more supportive of increased spending, and less responsive to the public interest than amateurs would be.

If these claims were true, we would expect that to be revealed by differences in the behavior of more and less professional legislators. We can search for these differences by comparing junior and senior members in the contemporary Congress. We can compare the behavior of the more professionalized twentieth-century Congress to the more amateur nineteenth-century Congress. We can compare amateur and professional legislatures across countries, states, and localities. None of these comparisons shows that professional legislators are more corrupt, parochial, or influenced by interest groups than their amateur counterparts.⁸

⁶This argument is cogently summarized by Michael Malbin, "Federalists v. Antifederalists: The Term-Limitation Debate at the Founding" in Benjamin and Malbin, pp. 53-56.

⁷From the 1788 New York state ratifying convention and quoted in Benjamin and Malbin, pp. 55-56.

⁸Term-limits supporters have relied heavily on James L. Payne's *The Culture of Spending* (San Francisco: ICS Press, 1991) for empirical support of their case that careerism breeds parochialism and excessive spending. While Payne is an unabashed critic of government spending, his study provides little solace for his champions. His own data (Table 5.1, p. 82) reveal that congressional tenure (number of terms served) has a minor effect on spending decisions, one that is swamped by the effects of party and ideology. Moreover, Payne explicitly rejects the pork-barrel theory of congressional elections that is an article of faith among most proponents of term limits as well as citizens who find them so appealing.

Instead, careful study of Congress and every other sector of society suggests that greater professionalism is a necessary offshoot of the growth and specialization of the modern world. If the political rules are rewritten to make it impossible to build a career in Congress, then the institution will have to rely on the professionalism of others to do its job, whether they are staff members, bureaucrats, or lobbyists. The revolt against professionalism is part of a broader populist resentment of elites in all spheres of society and a nostalgia for a bygone Golden Era. But advocates of term limits are hard pressed to offer any examples of amateurism operating successfully in contemporary society, in the United States or abroad. George Will got it right the first time when he wrote: "The day of the 'citizen legislator'—the day when a legislator's primary job was something other than government—is gone. A great state cannot be run by 'citizen legislators' and amateur administrators."⁹

Finally, there is the critical issue of whether term limits would succeed in replacing career politicians with citizen-legislators and whether the latter would fit the image sketched by term-limits proponents. The precise form of the term limits would have a bearing on this question: Simple limits on continuous service in one house would have a very different effect on candidate recruitment from a lifetime limit on service in Congress. The former is likely to foster a class of itinerant professionals who move up and within a hierarchy of term-limited legislatures, no less engaged in the profession of politics, but probably less committed to the larger purposes of the institution of which they are a part. The latter, depending upon the severity of the limit, would alter recruitment patterns; but would the average member fit the image of the disinterested citizen-legislator? I think not.

Absent other changes in the legal and political context of congressional elections, the "normous costs—personal and financial—of running for Congress would not diminish under term limits. Candidate-centered, media-dominated, weak-party campaigns require entrepreneurial skills and resources that are not evenly distributed across American society. Removing the possibility of developing a legislative career would skew the membership of Congress even farther in the direction of a social and economic elite. As political scientist Morris Fiorina has observed, "Amateur political settings

⁹George F. Will, *Statecraft as Soulcraft* (New York: Simon & Schuster, 1983), p. 16.

advantage the independently wealthy, professionals with private practices, independent business people, and others with similar financial and career flexibility."¹⁰ Moreover, Syracuse University professor Linda Fowler is almost certainly correct in arguing that patterns of recruitment and forced retirement under term limits will increase the influence of special interests in the legislature.¹¹

In sum, the linchpin of the case for term limits—the desirability and feasibility of ending legislative careerism and returning to the citizen legislature originally conceived by the Founders—fails in every key dimension. Mandatory rotation destroys the primary incentive used by the Federalists in writing the Constitution to nurture a deliberative democracy. The perceived ills of contemporary American government—from policy deadlock to pork-barrel spending—have little connection to careerism in Congress. Professionalism is an essential feature of a complex and specialized world. Finally, any effort to use term limits to replace careerists with citizen-legislators is likely to produce some combination of musical chairs by professional politicians with weak institutional loyalties and of participation by elite amateurs with sufficient resources and connections to make a brief stint in Congress possible and profitable.

Competition and Turnover

Another crucial argument advanced on behalf of congressional term limits is the need to restore electoral competition and turnover to a body in which incumbents exploit the advantages of their office to ensure automatic reelection and perpetuate a permanent Congress. Term limits, it is argued, will reinvigorate democracy by leveling the playing field between incumbents and challengers, preventing dynasties from forming in Congress, and guaranteeing that fresh blood and new ideas reach Washington on a regular basis.

There is much to be said for that critique of congressional elections. My colleague at Brookings, Bill Frenzel, a former Republican member of the House from Minnesota, developed the argument in a

¹⁰Morris P. Fiorina, "Divided Government in the States" in *The Politics of Divided Government*, ed. Cary W. Con and Samuel Kendall (Boulder, Colo.: Westview Press, 1991), pp. 192-93.

¹¹Linda L. Fowler, "A Comment on Competition and Careers" in Benjamin and Malbin, pp. 181-85.

recent article in *The Brookings Review*.¹² I responded to Frenzel's argument in an accompanying essay.¹³ I urge interested parties to review carefully our respective assertions and evidence. Here I will simply summarize what I see as the major problems with that argument for term limits.

One concern of critics can easily be put to rest. There is no permanent Congress. Indeed, it is ludicrous that the term continues to be used following the 1992 elections, which produced the largest turnover in the House since 1948. Many analysts overgeneralized from the quiescent House elections between 1984 and 1988. The fact is that the membership of the House and Senate is largely remade every decade. The years between 1974 and 1982 produced a high level of turnover from retirements and incumbent defeats. By the early 1980s three-fourths of senators and representatives had served fewer than 12 years. Membership stabilized during the rest of the decade as new members settled in and the public showed little interest in throwing the rascals out. That pattern began to change in 1990, although a weak field of challengers kept House incumbent losses to fifteen members in spite of the widespread signs of public discontent. But 1992 confirmed that we are once again in a period of rapid membership turnover. Every indication is that high levels of voluntary retirement and incumbent defeat will continue in 1994.

While achieving a healthy flow of new blood is not a serious problem for the House or Senate, ensuring a reasonable level of competition is. Incredibly high reelection rates and large margins of victory (more so in the House than in the Senate) are a legitimate concern. But term limitations are unlikely to increase the competitiveness of congressional elections. Increased competition requires more high-quality, well-financed challengers, but term limits would neither materially reduce the disincentives to running for Congress nor increase the effectiveness of party recruiting mechanisms. Potential candidates would continue to weigh the disruptions to family life and career, loss of privacy, demands of fundraising, and the other unpleasantness of modern campaigns. Moreover, there is no reason to believe that term-limited incumbents would be any less

¹²Bill Frenzel, "Term Limits and the Immortal Congress: How to Make Congressional Elections Competitive Again," *The Brookings Review* (Spring 1992): 18-22.

¹³Thomas E. Mann, "The Wrong Medicine: Term Limits Won't Cure What Ails Congressional Elections," *The Brookings Review* (Spring 1992): 23-25.

determined to retain their seats for the full period permitted by the amended Constitution. The odds of a challenger's defeating an incumbent would not increase under term limits. Indeed, a term limit would very likely turn into a floor, with would-be candidates deferring their challenges and awaiting the involuntary retirement of the incumbent. If a norm of deference to term-limited incumbents took root, elections would be contested only in open seats, and then only those not safe for one political party or the other. This would mean a net reduction in the competitiveness of congressional elections.

One important (though usually unstated) target of term-limits proponents is the permanent majority status of the House Democratic party. Presumably Republicans would have a better chance of climbing out of the minority if the cohort of veteran Democratic legislators were forced to give up their seats without a fight. I am sympathetic to the goal—an occasional change in the House majority party in line with national political tides would be good for politics and governance—but dubious of the means. Yet during the 1980s, while Republicans fared better in open seats than in those contested by an incumbent, even here their performance fell short of the Democrats'. Term limits just won't get the job done, whether the job is increasing competition generally or elevating the Republicans to majority status. The right responses are more targeted interventions to build a stronger Republican "farm team" of candidates, to put more resources into the hands of challengers and limit the material advantages of incumbency, and to raise the national stakes in congressional elections.

Accountability

Another argument advanced by term-limits supporters, one that is related to the critique of careerism, is that members of Congress are not genuinely accountable to the people who send them to Washington. The overriding goal of reelection leads members to pursue a manipulative relationship with their constituents—they buy safe districts by shoveling pork and catering to special interests with access to campaign resources. Ordinary citizens are anesthetized and potential challengers discouraged, thereby allowing members to pursue their own agendas in Washington without any realistic fear that they will be held to account for their actions.

There are grounds for concern here. Uncontested elections and halfhearted challenges are unlikely to have a bracing effect on incumbents and over time may breed an unhealthy feeling of invulnerability and arrogance. Moreover, heavy investments in constituent service tend to depoliticize the relationship between representatives and constituents and minimize the possibility of policy accountability. Yet most members of Congress remain unbelievably insecure about their political futures and highly responsive to the interests of their constituencies. One major reason incumbents are so successful is that electoral accountability is alive and well: Representatives conform to the wishes of their constituents and are in turn rewarded with reelection.

The problem is not individual accountability. Voters show no signs of suffering from inattentive or unresponsive representatives. If anything, members of Congress are too solicitous of their constituencies and insufficiently attentive to broader national interests, too consumed with their personal standing in their district or state, and too little dependent on their political party.

What many of us sense is in short supply in the contemporary Congress is a collective accountability that provides an appropriate balance between local and national interests, between narrow and general interests, and between short-term preferences and long-term needs. The present system appears to favor local, special, and immediate interests over national, general, and future concerns. Will believes the way to right that balance and to restore congressional deliberation in service of the public interest is to remove members of Congress from the unseemly and demeaning business of elections, to proscribe ambition in public life rather than to channel it, and to take the politics out of government.

I believe this effort is self-defeating. It would deny the democratic connection rather than revitalize it. There is simply no reason to believe that a term-limited Congress would be more accountable to the American people or that it would be more inclined to advance the public interest. If anything, term limitations are likely to shift the focus of members of Congress even more in the direction of local and immediate concerns.

Congressional Organization and Power

The final argument offered by proponents is that term limits would transform the institution of Congress, making it more productive,

more deliberative, less dependent on staff and special interests, less disposed to micromanage programs and agencies, and better structured to reward members on the basis of ability rather than seniority. As I understand the logic of this argument, term limits would change the motivations of legislators and subsequently their behavior by removing the incentive to put reelection and personal power within the chamber above other considerations, such as making public policy in the national interest.

It requires an extraordinary leap of faith to believe that term limits will produce these desirable institutional changes, especially in light of my earlier discussion of the electoral effects of term limits. We have no direct evidence on which to rely—term limitations have been in effect in the states for too brief a time to provide an empirical basis for any reliable generalizations. Indeed, there is much to be said for taking advantage of our federal system by assessing the state experiments with term limits before enshrining them in the U.S. Constitution. A number of very interesting scholarly studies are now being launched and pertinent findings will begin to emerge as state term limits take effect over the next several years. But I suspect my call for experimentation and deliberation will not mollify leaders of the term-limits movement.

Absent any reliable evidence, I simply note that the institutional changes mentioned above do not logically follow from the imposition of term limits. Take legislative productivity. As Michael Malbin and Gerald Benjamin have observed, a legislature of well-meaning amateurs, determined to decide on the merits of an issue unsullied by career considerations, has no guarantee of success. While critics often attribute stalemate to cowardly politicians unwilling to make tough decisions, it more often occurs among legislators who want to do the right thing but disagree over what the right thing is.¹⁴

Or take deliberation, which George Will sees as occurring in a legislature where "members reason together about the problems confronting the community and strive to promote policies in the general interest of the community."¹⁵ Ironically, the term-limits movement is the very antithesis of deliberation. It is riding the crest of a plebiscitary wave in our politics which favors initiatives,

¹⁴Michael J. Malbin and Gerald Benjamin, "Legislatures After Term Limits" in Benjamin and Malbin, p. 211.

¹⁵George F. Will, *Restoration*, p. 110.

referendums, and other forms of direct democracy over the reasoned discussion insulated from public passions preferred by Will. I find it hard to imagine how term limits would foster deliberation in Congress. Members would continue to have a reelection incentive until they came up against the limit. A greater impatience to build a record of achievement would not necessarily augur well for the national interest; short-sighted solutions to immediate problems could just as easily be the result.

More importantly, the intense individualism of the contemporary Congress would be strengthened, not weakened, under term limits. There would be little incentive for members to follow the lead of others, be they party leaders or committee chairmen. The elimination of seniority as a basis for leadership selection, a likely consequence of term limits, would intensify competition and conflict among members but devalue the authority of those positions. Few rewards and resources would exist for institutional maintenance and policy leadership—protecting the independence and integrity of Congress, setting legislative agendas, and mobilizing majorities. With little change in the media and interest group environment of Congress, the centrifugal forces in Congress would remain strong while the centralizing instruments would be weakened.

Much the same can be said for the other improvements in the institutional performance of Congress that allegedly would flow from term limits. Term-limited members could prove to be more dependent on special interests for campaign funds, information, and a job after service in Congress than are present members. Less experienced members would perforce rely more heavily on congressional staff and executive branch officials.

Indeed, the more one examines the claims of term-limits advocates, the more one is struck by the utter failure of advocates to make a convincing case connecting remedies with problems. If Congress were to legislate in a complex policy area on the basis of theories and evidence no better than I have summarized here, it would be roundly (and properly) criticized by many of those who now embrace term limits. There is, I believe, no substantive case for amending the U.S. Constitution to limit the terms of members of the House and Senate.

While I believe the failure of proponents to present a convincing argument for term limits is sufficient reason for rejecting a

constitutional amendment, there are two additional reasons for resisting popular sentiment on this issue.

Democracy

Term limits would diminish our democracy by restricting it unnecessarily. Voters now have the power to end the career of their representatives and senators by the simple exercise of the franchise. At present they also enjoy the power to retain in office those officials whom they believe merit reelection. The Constitution properly precludes the citizens of one district or state from limiting the electoral choice of those residing somewhere else.

I fully support efforts to increase the supply of able, well-financed challengers and to enhance the quality and quantity of relevant information about incumbents available to citizens. Such steps would increase the competitiveness of congressional elections and expand the choices available to voters. But an arbitrary limit on terms of congressional service is an antidemocratic device masquerading as the champion of democratic revival.

The Founders said it best, as Chief Justice Warren noted in his 1944 decision in *Powell v. McCormack*: "A fundamental principle of our representative democracy is, in Hamilton's words, 'that the people should choose whom they please to govern them' [2 Elliot's debates 257]. As Madison pointed out at the convention, this principle is undermined as much by limiting whom the people can select as by limiting the franchise [itself]."¹⁴

Experience

Longevity and experience do not correspond perfectly with wisdom and effectiveness. Some incumbents overstay their productive periods in Congress and are treated too generously by their constituents at reelection time. Every legislative body needs regular infusions of new members to reflect changing public sentiments and to put new ideas into the legislative process. Opportunities should exist for junior members to participate meaningfully in the legislative process.

¹⁴*Powell v. McCormack*, 395 U.S. 486, 547 (1969).

That being said, I believe it would be a terrible mistake to end all careers in Congress after six or twelve years.¹⁷ Legislative talent—which encompasses among other traits a respect for the public, a capacity to listen to people who disagree with you, bargaining skills, a willingness to compromise, an appreciation for parliamentary procedure, and a capacity to move easily between technical knowledge and ordinary experience—is not in overabundant supply. Able people must be encouraged to make substantial investments in developing these skills and applying them on behalf of the public interest. Anyone familiar with the current Congress can name dozens of senior members in both parties whose careers defy the stereotype of term-limits supporters. They have serious policy interests, they are legislative workhorses, they have the confidence to resist temporary passions and interest-group pressures, and they demonstrate a respect for their institution and the pivotal role it plays in the American constitutional system. History is filled with examples of legislative careerists who made substantial contributions to their country, including such notables as Robert LaFollette, Jr., Arthur Vandenberg, Edmund Muskie, and Sam Ervin. Term limits would have ended their careers in Congress before they made their mark. Rather than demonstrate contempt for such careers, we should think about how we might encourage others to make a comparable investment.

Conclusion

Term limitation is a false panacea, a slam-dunk approach to political reform that offers little beyond emotional release of pent-up frustrations with the performance of the economic and political system. Shortcomings in the electoral process and in the organization of Congress should be dealt with directly, in ways that strengthen representative democracy and the institution closest to the people.¹⁸

¹⁷John R. Hibbing has provided the most systematic evidence linking congressional tenure with legislative effectiveness: "Senior members are the heart and soul of the legislative side of congressional service." *Congressional Careers* (Chapel Hill: University of North Carolina Press, 1991), p. 126.

¹⁸An agenda for congressional reform is presented in Thomas E. Mann and Norman J. Ornstein, *Renewing Congress: A First Report* (Washington, D.C.: AEI and Brookings, 1992) and *Renewing Congress: A Second Report* (Washington, D.C.: AEI and Brookings, 1993).

Mr. CANADY. I have a brief question for Mr. Kester.

Now, you have been involved in the cases before the Supreme Court. Now, assume that the Supreme Court upholds the right of the States to restrict the ability of Members of Congress to seek reelection. In your view, what would be the impact of the proposed amendments that we have been talking about here? Would those amendments preempt the ability of the States to restrict the ability of Members to seek reelection, or could the States continue to do that?

Mr. KESTER. Well, It is hard to answer that question, Mr. Chairman, as a generality, because I think you have to look at the wording of each one of the amendments. My understanding, from those that I have seen, is they don't address that question specifically.

Mr. CANADY. I don't think that any of them specifically address it.

Mr. KESTER. None that I have seen does. Preemption—

Mr. CANADY. Other than Mr. Deal's.

Mr. KESTER. Yes. Preemption is always a very fuzzy and difficult area. If you look at the Supreme Court cases on preemption, they are all over the lot. I suppose that if one of those amendments in that form came before the Court after the Court had upheld State authority to enact term limits laws, if it did so, they would look at the legislative history, although some members of the Court, like Justice Scalia, don't want to look at legislative history at all. And legislative history is a messy area.

So I think they would certainly look at what the sponsors said. If the sponsors said this preempts, then I assume that some members of the Court would be inclined to say, yes, it does preempt. But the question I guess I would have is, why not specify? I mean, why leave it up to the guesswork of a Supreme Court case?

Obviously, the Congress is going to have views on that, and there is no reason not to write a simple sentence into one of those amendments saying it does or it doesn't.

Mr. CANADY. Thank you.

Mr. Frank.

Mr. FRANK. First, I am sorry, someone isn't here. There was some reference to whether or not the practice of serving for 12 years or more, which commented on in the 19th century, and it has gone back and forth.

I would ask unanimous consent to put in the record a list I have from the CRS of 103 Members of the House of Representatives who served for 12 years—for more than 12 years in the 19th century, including John Randolph, Speaker Reed, Speaker Cannon, John Quincy Adams, Alexander Stevens, et cetera. So I would ask that this list of the 103 people who served for more than 12 years consecutively be put in the record.

Mr. CANADY. Without objection.

Mr. FRANK. Second, let me express my complete agreement with you, Mr. Kester. It would seem to me to be really irresponsible of us if we were to pass such an amendment to leave open the question of preemption when we could very easily specify. So now let me ask you, what would your preference be? Should we preempt or not preempt if we were to do a limit?

Mr. KESTER. One approach to it—

Mr. FRANK. I can think of all of the approaches, I would just like to know what your policy preference is.

Mr. KESTER. Well, my own policy preference is, I suppose, and I don't even know if any such amendment has been drawn up—

Mr. FRANK. As you pointed out—I don't care whether or not they have been drawn up or not. We will do the drafting. What is your policy preference?

Mr. KESTER. Probably the fairest thing, for all of the interests involved, would be to set a maximum number of terms and apply that nationally, but to allow States that wanted to have a shorter limit. Because after all, it is they—themselves—that pay the consequences of that, if there are negative consequences, say that they can have less if they want, but they can't extend it.

Mr. FRANK. So your preference would be for a national limit. What is the national limit you would prefer?

Mr. KESTER. Three terms in the House.

Mr. FRANK. So you say the maximum should be 6 years in the House, and how many terms in the Senate?

Mr. KESTER. Two.

Mr. FRANK. Two.

Mr. KESTER. There are 22 States now that have—

Mr. FRANK. Mr. Kester, I don't care how many States. You are for three terms in the House and two terms in the Senate, and you would allow a State to go then either one or two terms in the House and one term in the Senate.

Mr. KESTER. Yes.

Mr. FRANK. What is the rationale for letting the States do less and not more if we are deferring to the States?

Mr. KESTER. It is basically a deference to the people of a particular State. I mean—

Mr. FRANK. Excuse me, sir. Why do we defer to them this way, but we don't defer for them that way. Put that in the record. Sorry. Let me redo this.

Why don't we defer to them down rather than defer to them up, in fairness to the stenographer.

Mr. KESTER. The argument is made—

Mr. FRANK. Please, sir.

Mr. KESTER. The argument—

Mr. FRANK. I don't care, I am asking you—

Mr. KESTER. I am answering you, sir.

Mr. FRANK. When you say the argument can be made, that sounds like you are quoting somebody else.

What do you think?

Mr. KESTER. The argument that is made to which I tend to subscribe, although I haven't seen enough empirical evidence to be positive, is that it is generally thought that States, because of the seniority system particularly, are at a disadvantage if their legislators are turning over more frequently than the legislators coming from other States. And this is an argument that is constantly used in the States as a reason why the Members—why the electors of those States should not vote—

Mr. FRANK. So that is why you would not allow the State that option.

Mr. KESTER. I am sorry?

Mr. FRANK. You would not allow the State to opt out of a term limit on the maximum side, on the minimum side, but not on the maximum side.

Mr. KESTER. That is right. If they want more turnover for themselves, that is fine. But there ought to be turnover required—

Mr. FRANK. Could they do less than 2 years? What about a State that would say 1-year terms, if they thought that was better, they get more turnover. Would you allow that?

Mr. KESTER. The term is—

Mr. FRANK. I understand that. Why stop at that, though. I mean, would you allow an amendment for a State to say we would like to only have 1-year terms. We used to have 1-year Governors in Massachusetts.

Mr. KESTER. No, I wouldn't favor that.

Mr. FRANK. Why not.

Mr. KESTER. Too short.

Mr. FRANK. One year at a time is too short.

Mr. KESTER. And now we can argue about where we are.

Mr. FRANK. No, I don't think there is any need for that.

Thank you, Mr. Chairman.

Mr. CANADY. Mr. Hyde.

Mr. HYDE. No questions.

Mr. CANADY. Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

I was going to ask Mr. Kester a question, but I am not sure that I have the confidence now that he would answer it, given his unwillingness to answer Mr. Frank's questions. So I am just going to assume that what I heard him say was accurate, and take some issue with it. And that is that we as Members of Congress have a vested interest in this issue, and therefore, we should submit this question to States to make that decision.

I suppose if I followed that rationale, any time any kind of popular issue that we have some vested interest in as a Congress comes to fore, we should offer an amendment to the Constitution and get it out of here and let the people talk about it out there, rather than representing their interests or advancing whatever public policy notions we think are reasonable about it.

Did I understand that that was an argument that you were making that we—as a reason that we should get this issue out of here and put it out there?

Mr. KESTER. Let me say first, I don't think there are very many issues that are going to come before you that are anything like the term limits issue. So in some ways, it is unique.

What I am suggesting to you is not that any Member of this body should vote for a proposed constitutional amendment, which your conscience tells you or your mind tells you is absolutely wrong. But if it is in a gray area, as so many things are that come before this House, if you are balancing the good and the bad of it, and of course there are some downsides to term limits, just as there are to most close policy questions, in this situation, you might bend over a little backwards and—

Mr. WATT. I appreciate you telling me that, because since I don't have any doubts about where I stand on this issue, then I wouldn't have to follow your edict that I have some vested interest in it;

therefore, I should not—and I would just tell you as a practical matter, I don't think I have a vested interest in it; I am not a career-politician.

I practiced law for 22 years before I came here. I served one term in the North Carolina State Senate and got out of the North Carolina State Senate, never, ever expecting that I would get back in politics. I make less money now than I did practicing law, so I don't have that conflict of interest about it.

I may be the only Member of Congress where whether I would serve more than one term was an issue in my campaign, because given my prior experience, when I decided to run for this position, an issue was actually raised about whether I would have the patience to stay in a political body. So whenever I get to the point where either my constituents tell me that I have served enough terms, or I feel like I have got a conflict of interest, then I am going to get out, and I told them that. So I am just—I am glad you exempted me and set me at ease that I could make this judgment on my own rather than just advocating my responsibility.

I yield back the time.

Mr. FRANK. Would you yield to me for one question.

Mr. KESTER. I respect your views and your conscience.

Mr. FRANK. I wanted to ask Mr. DeConcini and Mr. Kester one question.

If the final vote through the amending process, as the Senator is well aware of, if the choice were a 12-year limit for the House with preemption, would you advise us to vote for that or against it, Mr. Kester, a 12-year constitutional amendment limit, with a preemption that the States could not do less?

Mr. KESTER. As opposed to nothing?

Mr. FRANK. Yes. If that is the final vote.

Mr. KESTER. That is better than nothing.

Mr. FRANK. So you would urge people to vote for the 12 years, with a preemption, if that was the final vote?

Mr. KESTER. It is better than nothing, but it is not satisfactory.

Mr. FRANK. Well, people who always want to be satisfied, probably should leave Congress.

Mr. DeConcini.

Mr. DECONCINI. Yes, sir, that is exactly what Senator Danforth and myself introduced some 18 years ago, exactly that.

Mr. FRANK. So for your 18 years in the Senate, you would be for a 12-year limitation.

Mr. DECONCINI. That is correct.

Mr. CANADY. Mr. Inglis.

Mr. INGLIS. Thank you, Mr. Chairman.

Earlier, Mr. Frank mentioned that there was some careers that would have been foreshortened by term limits, and I think again, I just must remind him before I go into questions, that all of the Members of Congress that are here in this, is that, you know, for every one of those famous people that Mr. Frank was referring to, and many of them were admittedly famous, that is wonderful, how many do you think were out there that were equally wonderful that could have served as well or better? How many Barney Franks are there that maybe could do as well or better than Barney Frank, or how many Bob Inglises are there that could clearly do better.

Mr. FRANK. If the gentleman would yield. My sole point in mentioning that was that people had stated to the contrary. I was simply correcting a contrary statement that I heard a couple of times, that this didn't happen in the 19th century, and I was simply trying to correct that.

Mr. INGLIS. Yes. Well, earlier Mr. Payne mentioned, I think, Daniel Webster, and how if he had been here—but I think the thing we need to remember is that somebody in the country music industry was telling me the other day, and this is maybe only half-way analogous; you know, there are a lot of country music stars that are out there, that aren't stars, and you know what makes them a star, is some guy picking them up or some woman picking them up and making them a star. There are people that can sing just as well as the folks who are singing.

So you have a little bit of humility when we come to this and not assume that we are the only people that can sing the country music the way that the current stars do. There are a lot of folks singing for 50 bucks a night that probably can sing better than the ones that are stars, and so the is case for Members of Congress. Let's just be a little bit more humble, I believe, would be a good turn of events around here.

But Mr. Mann mentioned apparently earlier, that he would like to have dialog with me and I have been looking forward to having dialog with him. I didn't get to hear your testimony here, but I remember it with considerable objection the last time we had a hearing and we heard your testimony.

In particular, I looked at your written testimony, Mr. Mann, and let me ask you, you say that the 1994 election results strongly support my position that congressional term limits are neither necessary nor desirable. Do you find that statement at odds with the observation that 90 percent of the incumbents that wanted to come back in 1994 were reelected, including me and Mr. Frank and Mr. Canady and all of us who were reelected, 90 percent of us that wanted to come back?

Mr. MANN. Not at all, Mr. Inglis. I think a 90-percent reelection rate provides the opportunity for massive turnover in the Congress over time. If you were to look at democracies around the world, you would find that 90 percent reelection rate is more typically the norm rather than the exception. In fact, pure chance, flipping a coin in the air, would produce a 50-percent reelection rate.

One has to believe you all were elected initially, when you ran as challengers, because there was something good about you, that you had qualities that were valued by your constituents, and that since being in office, you have done what you can to satisfy the demands and interests of those constituents. I think it would be bizarre if reelection rates were dramatically lower.

What I would say, though, is that the difference between 90 and 98 or 99 percent is massive. What you have to do is retain the capacity to put fear in the hearts and souls of Members of Congress. This time, only 55 percent of the incumbents were reelected with 60 percent or more of the vote. It is the smallest percentage of safe incumbent reelections in 50 years. We had a really competitive election. The public spoke, they transformed Capitol Hill.

Mr. INGLIS. But let me ask you this. I beg to differ. I think that that isn't indicated, particularly when you look at the fact of the disapproval rating of the Congress. How do you square that with the fact that if the Congress is esteemed so lowly, why would we reelect 90 percent of those folks? I have an explanation, but I think it is consistent. I don't think yours is.

Mr. MANN. This is a classic fallacy of not distinguishing between individual Members and the institution as a whole. Members of Congress' approval ratings typically are higher than that of the institution as a whole. One of the reasons is because Members of Congress, not all, but some Members of Congress do well getting reelected by denouncing the institution of which they are a part. It is an old story around here, and it has become all too prevalent in recent years.

Mr. INGLIS. Let me interrupt you right there. Why would one not denounce an institution that has landed us \$4.7 trillion in debt?

Mr. MANN. I certainly would not denounce the Congress of the United States in blanket form for producing that. I would be happy—

Mr. INGLIS. It is good results, \$4.7 trillion.

Mr. MANN. But you see, the Congress is only one branch of government.

Mr. INGLIS. It is the one that spends the money.

Mr. MANN. Wrong. The President has to sign bills and the President is a major participant in budget policy. And unless you are willing to realize that the two of these must work together, you will never solve that problem.

Mr. CANADY. The gentleman's time has expired.

Mr. Hoke.

Mr. HOKE. Thank you, Mr. Chairman.

James Madison said, "We cannot deny ambition, we must channel it." Let me suggest to you that there is plenty of opportunities inside the concept of term limits to channel ambition. Not even considering what might be done at local government or in State legislatures.

If it is a 12-and-12 term limit, and if you believe in the concept that the cream rises, I mean, you go 12 years in the House, 12 years in the Senate, 8 years as the Vice President and 8 years in the White House, that is 24 plus 16, that is 40 years. That would be a heck of a good career, and that would channel ambition. And if you put into place a little bit of time perhaps in the mayor's office or in the State legislature, you can see that it would be a lot more time.

It is true that there were Members in the 19th century who served 12 years and longer. But it is also true that the average length of service in the 20th century has been substantially longer than the average length of service in the 19th century. And it seems to me that the problem that we have here has to do with entrenchment and what happens as a result of that, rather than with a problem of professionalism or careerism.

I wanted to ask a specific question of Mr. Kester.

Mr. Kester, you indicated that you—I think I heard the answer, yes, when Mr. Frank asked you the question; would you support, if it were the only thing available, a bill that would limit terms 12

years with preemption? You didn't actually say the word yes, but you said that would be better than anything else.

Mr. KESTER. I said it would be better than nothing. If you are starving and that is the only thing on the plate.

Mr. HOKE. So you would support that?

Mr. KESTER. But very reluctantly, because what I support is something different.

Mr. HOKE. All right. Well, reluctantly or not, you would.

The only suggestion that I would make to you is that you take that suggestion back to your masters at U.S. Term Limits and, say, suggest to them that that might be a good policy for them as well. I assume that is your personal opinion and not that of—

Mr. KESTER. I am speaking only for myself.

Mr. HOKE. But you do represent U.S. Term Limits in a court action.

Mr. KESTER. I have represented them in their litigation.

Mr. HOKE. In all of their litigation?

Mr. KESTER. All of the litigation that I am aware of.

Mr. HOKE. All right.

I wanted to ask Senator DeConcini, if I could, have you on the Senate side thought about the issue or given any consideration to the issue of extending the length of the term in the House from 2 years to 4 years?

Mr. DECONCINI. That has been a debate, Congressman—

Mr. HOKE. And let me say, because I sponsored a bill with this in the last House and I am interested in it now, and I will give you the assurance—I think this is an important assurance that you should have, that the caveat in my constitutional amendment would have—would not allow a sitting Member of Congress to run for another Federal office during the term of his—so it eliminates this problem of the free shot at the Senate.

Mr. DECONCINI. You answered the question, Congressman, yourself, because that is the debate we have had among Members, not on the floor in my recollection for 18 years at least, but that, of course, is the fear and that is understandable.

Mr. HOKE. Absolutely.

Mr. DECONCINI. And I, for one, supported a 4-year constitutional amendment with such a prohibition. I didn't introduce it, because I couldn't get more than 12 or 14 Members, finally Barry Goldwater signed on to term limits while I was in the Senate, because of its unpopularity among my colleagues. So I did not proceed with a 4-year term for House Members, with the restrictions that you have said.

Mr. HOKE. What do you think is the advantage of that?

Mr. DECONCINI. Well, I think until and maybe never, we do something about the cost of elections, that it is absurd what House Members have to go through; it is absurd what Senators have to go through, and we have 6 years. But to see the cost of the elections for you ladies and gentlemen here, is absolutely deplorable and there doesn't seem to be a fix coming with any kind of controls on those funding, and to me this is a response to that.

And I think that you would spend more time doing your job, not to take away from the great talent that is here in this body and how hard we work, I know how hard they work, but a lot of that

work is raising money, and I think there should be more time to do the business of the people.

Mr. HOKE. Well, I agree. If I could just take 30 seconds, I agree with you completely. My concern is much less for us and the amount of time that we take in fundraising, but in the way that that really is genuinely a disservice to the public.

Mr. DECONCINI. I agree with that.

Mr. HOKE. Thank you.

Mr. CANADY. I want to thank each member of this panel for being with us. You have been very patient.

Mr. DECONCINI. Mr. Chairman, thank you.

Mr. CANADY. Thank you for your participation.

I would like to ask the members of the final panel to come forward.

We have four members on this panel. I will introduce three of the members of the panel, and then I want to defer to the gentleman from North Carolina, Mr. Heineman, who will introduce one of our witnesses.

Testifying today will be Becky Cane, who is president of the League of Women Voters. Cleta Deatherage Mitchell will testify. She is general counsel for the Term Limits Legal Institute. We will also hear from Fred Wertheimer who is president of Common Cause.

Mr. Heineman.

Mr. HEINEMAN. Thank you, Mr. Chairman.

Mr. Chairman, I am privileged to introduce to this distinguished committee my mayor, the mayor of Raleigh, NC. I have known Thomas Fetzner for years and his career is marked with distinction—from his year with then Senator John East, to his recent service as chief deputy secretary for the North Carolina Department of Transportation.

Tom Fetzner has earned a reputation for being a tough, yet fair-minded decisionmaker. Tom is the first Republican mayor in the history of the city, and it is about time. He has wasted no time in fulfilling his promises to the people of Raleigh. The reduction of the tax rate in Raleigh for the first time in 30 years is listed among his early accomplishments.

Tom knows, as the American people know, that term limits are imperative to restore confidence in Congress. Tom and I believe in a citizen legislature. Our Founding Fathers never envisioned a political system where public service would be considered a career. Instead, they believed firmly that good citizens with a solid reputation in the community would fulfill his civic virtue duty to the country, then go home.

Tom and I are staunch supporters of term limits and will push for their implementation at all levels of government.

Some men succeed by what they know; some by what they do, and a few by what they are. Tom has succeeded because of all three, and I am honored to introduce Tom here today to this body.

Thank you.

Mr. CANADY. Thank you, Mr. Heineman.

Again, as with all our other witnesses, your full statements will be in the record.

We are going to have a vote coming up very shortly, so I just want to warn you about that. I am going to encourage you to make your remarks as succinct as possible.

Thank you.

First, I would like to recognize Mayor Fetzer.

STATEMENT OF THOMAS H. FETZER, MAYOR, RALEIGH, NC

Mr. FETZER. Thank you very much.

I want to thank Congressman Heineman for his too kind words. We are very proud of Fred Heineman in Raleigh. He was our police chief for 15 years. We brought him down from the Bronx, we southernized him and he made our city one of the safest major cities in the Southeast and the safest major city in the State of North Carolina, and we are still thankful and grateful to him.

I little want to say hello to Congressman Watt from my State. It is good to see you here today, sir. I have a prepared statement.

One of the joys that we in local government share with you federally elected officials is sitting where you are sitting and hearing people come and read what appear to be interminably long prepared statements. I will not torture you with any more today. It is there for you to read, if you wish, complete with some nice quotes from George Washington and George Will and some others.

I ran for Congress as a challenger in 1988 against the opponent that the chief subsequently defeated. I know how hard it is to run as a challenger. I know how stacked the deck is for incumbents.

It has been done that way over many years, not particularly by this Congress, but previous Congresses have created an institution through franking, through the vast growth of staffs, et cetera, where dethroning an incumbent is an exceedingly difficult task.

I believe, and I think you believe, that the people who serve where you are serving today are the best and brightest people that this Nation has to offer. I do not believe that it should take 6 years or 12 years to learn enough about this job to do it well. I do believe that your job is exceedingly complex and should be made more simple. I do not think that the average American understands what an Omnibus Budget Reconciliation Act is or what markups are or all of those other things. And as this process has become more complex, it has rewarded seniority more and more.

Ours is a nation that has always been based on merit, not just simply tenure. And I think if this process becomes more simple so that the average American can understand it better, I think you will find more average Americans seeking office, taking a brief hiatus from their careers to serve, not becoming, not making it a career. I think that will enhance the process greatly.

I have spoken with a freshman Congressman who is a long-time friend of mine, I had dinner with him last night and he said: "I have not had time to think since I have been up here, the schedule is so fast and furious, I really haven't had time to sit down and think."

I was reading an article in the Washington Post this morning, not about a Federal legislator, but a State legislator in Virginia, who said we are simply doing what our constituents are telling us to do. And it just brings to mind that as George Will said: Sometimes Congress is—it is not the fact that it is not close enough to

the people, sometimes it is too close, and there is not the insulation, the distance needed to give you the time to think and the time to ponder from the clamorous interests that invade the domain and seek public dollars.

I do think that term limits would give legislators at the Federal level, as well as public officials at all levels that insulation that they need. I support term limits at all levels of government; I have introduced a resolution in the city of Raleigh to introduce term limits in our city government. I think for State and Federal legislators, it would be an equally good idea.

And I will save the balance of my remarks for questions later. And I thank you for your time and your interest and your commitment to considering this matter seriously.

Mr. CANADY. Thank you, Mayor Fetzer.

[The prepared statement of Mr. Fetzer follows:]

PREPARED STATEMENT OF THOMAS H. FETZER, MAYOR, RALEIGH, NC

IT'S AN HONOR TO TESTIFY BEFORE THE FIRST CONGRESSIONAL COMMITTEE TO SERIOUSLY CONSIDER THE ISSUE OF TERM LIMITS. LAST YEAR, CONGRESS HELD A HEARING ON TERM LIMITS BUT EVERYONE KNEW NO VOTE ON THE FLOOR WOULD BE PERMITTED BY THE LEADERSHIP. THE MEMBERS WHO HAVE SIGNED OR ENDORSED THE CONTRACT WITH AMERICA ARE TO BE CONGRATULATED FOR MOVING FORWARD ON TERM LIMITS WHICH ARE CONSISTENTLY SUPPORTED BY 80% OF THE AMERICAN PEOPLE IN THE POLLS.

TERM LIMITS ARE A FUNDAMENTAL ISSUE OF GOVERNMENT REFORM. TERM LIMITS OPEN UP THE PROCESS. TERM LIMITS GIVE MORE PEOPLE WITH FRESH IDEAS A CHANCE TO SERVE IN ELECTED OFFICE.

GEORGE WASHINGTON SAID IT BEST -- "A ROTATION OF ELECTED OFFICERS MAY BE MOST CONGENIAL WITH THE IDEAS THE PEOPLE HAVE OF LIBERTY AND SAFETY."

TODAY, TERM LIMITS ARE ALSO AN ECONOMIC ISSUE. A BABY BORN TODAY FACES A LIFETIME TAX RATE OF 82% TO PAY OFF THE PROMISES PREVIOUS CONGRESSES HAVE MADE WHILE PASSING THE BILL TO THE NEXT GENERATION. THE NATIONAL TAXPAYERS UNION RECENTLY REPORTED THAT WORKING PEOPLE IN THE NEXT CENTURY WILL FACE A SHOCKING DROP IN INCOME TO PAY OFF THE PROMISES CONGRESS HAS MADE WITH ENTITLEMENT PROGRAMS WHICH COME DUE IN FUTURE YEARS.

I CONGRATULATE THE HOUSE OF REPRESENTATIVES FOR PASSING THE BALANCED BUDGET AMENDMENT LAST WEEK. THE SENATE MUST

FOLLOW YOUR LEAD TO GIVE US ANY HOPE OF FINANCIAL SOLVENCY IN FUTURE YEARS. BUT TERM LIMITS ARE ALSO PART OF THE SOLUTION.

WITH TERM LIMITS, THE PEOPLE WHO SERVE HERE WILL HAVE LESS INCENTIVE TO PLEASE SPECIAL INTEREST GROUPS SEEKING FAVORS FROM GOVERNMENT AT THE EXPENSE OF FUTURE GENERATIONS. AS NOBEL PRIZE WINNING ECONOMIST JAMES BUCHANAN HAS DEMONSTRATED WITH HIS PUBLIC CHOICE THEORY OF ECONOMICS, THE TAXPAYERS WHO FOOT THE BILL FOR A GOVERNMENT PROGRAM ARE ALWAYS UNORGANIZED. EACH INDIVIDUAL TAXPAYER STANDS TO GAIN LITTLE IF A PROGRAM IS CUT. ON THE OTHER HAND, THE SPECIAL INTEREST GROUPS SEEKING MONEY FROM THE TAXPAYERS ARE ALWAYS HIGHLY ORGANIZED AND THEY GAIN A LOT IF THEIR SPECIAL INTEREST PROGRAMS ARE INCREASED.

IN RALEIGH, OUR CITY COUNCIL LAST YEAR CONSIDERED A PLAN DEVELOPED BY A COMMITTEE OF BUSINESS LEADERS I APPOINTED TO REDUCE CITY TAXES BY 20%. THE PLAN CALLED FOR CUTTING TAXPAYER GRANTS TO ARTS AGENCIES. THE GROUPS, LIKE THE ARTS AGENCIES WHO STOOD TO LOSE THE HANDOUTS FROM THE TAXPAYERS THEY HAD GROWN ACCUSTOMED TO, WERE HIGHLY ORGANIZED AND VOCAL IN THEIR OPPOSITION TO GETTING ALONG WITH LESS MONEY FROM THE TAXPAYER. THE SAME THING APPLIED TO EVERY OTHER INTEREST GROUP ACCUSTOMED TO GETTING TAXPAYER MONEY.

THE COUNCIL MAJORITY CHOSE TO LISTEN TO THE NOISY VOICES OF THE HIGHLY ORGANIZED SPECIAL INTEREST GROUPS. THE TAXPAYERS, THE SILENT MAJORITY, WERE NOT HEARD.

TERM LIMITS WILL CHANGE THE INCENTIVES IN THE SYSTEM. IF AN ELECTED OFFICIAL KNOWS THAT HE OR SHE CAN SERVE ONLY A FEW

TERMS AT MOST, THE ELECTED OFFICIAL WILL BE MORE LIKELY TO BASE DECISIONS STRICTLY ON THE MERITS, NOT THE POLITICS.

GEORGE WILL SAYS THAT FAR FROM BEING DISTANT FROM THE PEOPLE, CONGRESS IS OFTEN TOO CLOSE TO THE PEOPLE. MR. WILL SAYS TERM LIMITS WILL ESTABLISH A CONSTITUTIONAL DISTANCE BETWEEN THE CONGRESS AND THE CLAMOROUS ELEMENTS IN OUR SOCIETY THAT WOULD ALWAYS BEND THE GOVERNMENT FOR PRIVATE PURPOSES.

EVEN WITH THE PASSAGE OF A BALANCED BUDGET AMENDMENT, TOUGH DECISIONS MUST STILL BE MADE TO CONTROL SPENDING. TERM LIMITS ARE OUR BEST HOPE OF ENSURING WE HAVE LEADERS CONCERNED WITH THE NEXT GENERATION -- NOT THE NEXT ELECTION.

I DO NOT QUESTION THE MOTIVES OR THE INTEGRITY OF ANY ELECTED OFFICIAL. I SIMPLY THINK THE SYSTEM CAN BE IMPROVED WITH TERM LIMITS.

THE OPPONENTS OF TERM LIMITS FREQUENTLY SAY TERM LIMITS WILL INCREASE THE POWER OF UNELECTED CONGRESSIONAL STAFF AND LOBBYISTS. IF THAT WERE SO, THEN WHY ARE CONGRESSIONAL STAFF MEMBERS ONE OF THE FEW IDENTIFIABLE GROUPS TO BE AGAINST TERM LIMITS IN THE POLLS? WHY ARE ANTI-TERM LIMITS CAMPAIGNS SO OFTEN FUNDED BY LARGE CORPORATIONS WITH LOBBYISTS? TERM LIMITS WILL NOT INCREASE THE POWER OF SPECIAL INTERESTS AND STAFF. TERM LIMITS WILL INCREASE THE BACKBONE OF ELECTED OFFICIALS WHO HAVE TO DEAL WITH POWERFUL SPECIAL INTEREST INFLUENCES AND LOBBIES.

I ALSO WANT TO SHARE ONE THOUGHT WITH THE REPUBLICAN MEMBERS OF THE COMMITTEE. WHEN YOU SIGNED THE CONTRACT WITH

AMERICA, YOU PLEDGED TO ALLOW A VOTE ON TERM LIMITS. BUT PEOPLE AT THE GRASSROOTS ARE NOT GOING TO BE SATISFIED WITH A VOTE. THEY WANT A VICTORY.

I KNOW THERE ARE SOME REPUBLICAN LEADERS WITH VERY DISTINGUISHED RECORDS WHO HAVE PHILOSOPHICAL PROBLEMS WITH TERM LIMITS -- MR. HYDE, MR. DELAY AND MR. BARTON ARE THREE LEADERS I KNOW OF FROM WATCHING C-SPAN. I WOULD URGE ALL REPUBLICANS TO COME TOGETHER FOR TERM LIMITS. THE PEOPLE WANT THE CONTRACT FULFILLED. I URGE DEMOCRATS TO LAY ASIDE ANY PARTISAN OR PHILOSOPHICAL DISAGREEMENTS THEY MAY HAVE WITH TERM LIMITS. THE AMERICAN PEOPLE WANT THEIR CONGRESS TO REPRESENT THEM ON THIS ISSUE.

TERM LIMITS ARE AN IDEA WHOSE TIME HAS COME.

Mr. CANADY. As you can hear from the bells, we have a vote. We will recess for the vote and we will resume the proceedings immediately after the vote.

[Recess.]

Mr. CANADY. The subcommittee will come to order.

We will proceed.

Again, Mayor, we appreciate your testimony.

Next, I will recognize Becky Cain.

STATEMENT OF BECKY CAIN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

Ms. CAIN. Thank you, Mr. Chairman and members of the subcommittee.

My name is Becky Cain, and I am president of the League of Women Voters of the United States. I am pleased to be here today to express the league's opposition to amending the Constitution to set term limits for Members of the U.S. Congress.

The League of Women Voters is a nonpartisan, citizen organization with more than 150,000 members and supporters in all 50 States, the District of Columbia and the Virgin Islands. For 75 years, leagues across the country have worked to educate the electorate, register voters, and make government at all levels more accessible and responsive to average citizens.

Mr. Chairman, the League of Women Voters opposes congressional term limits for one basic reason: term limits interfere with the fundamental right of voters to elect their representatives.

As an organization dedicated to protecting and enhancing the role of citizens in our representative democracy, the league strongly opposes term limits because they arbitrarily limit voter choice. We believe that voters can be trusted to elect their representatives without government stepping in to regulate their choices.

The truth is, we already have term limits. They are called elections. If we don't like the job that our elected representatives in Washington are doing, we can support other candidates and vote incumbents out.

The most recent election provides the clearest demonstration of the power of the ballot box. Not only were the Speaker of the House, the Chair of the House Ways and Means Committee and the Chair of the Senate Budget Committee defeated, but control of both Houses turned over, bringing to power new chairs for every committee and subcommittee in Congress, including this one.

As we have heard today, approximately 40 percent of the House of Representatives is made up of Members serving their first or second terms. Term limits deny us, the citizens, the right to choose whom we think best to represent us and our interests.

The decision about how long in office is long enough, should be up to the voters who are the best judges of whether their interests are being served by the men and women whom they have sent to Washington. In addition, to arbitrarily limiting voter choice, there are several other things wrong with term limits. Term limits would weaken the legislative branch of government and strengthen the already powerful Presidency, upsetting the constitutional balance of powers.

Congress must be able to form its own judgments on national issues, to come to consensus independently of the executive branch's policies, if necessary. Congress must be able to retain its historic role of restraining the power of the Executive, who controls the entire Federal bureaucracy. As a result, the branch of government closest to the people would become a less effective advocate for those people.

Term limits would result in increased reliance on congressional staff, lobbyists and other unelected insiders. Legislators would depend much more on staff to sort out complicated issues and to keep things running at a time when many argue that congressional staff is already too influential. Inexperienced Representatives would also be forced to turn to Washington lobbyists and other insiders for advice on issues.

Term limits ignore the need for experience and management of public policy. There is nothing wrong with entrusting decisions about complex and critical, crucial issues that can affect our lives to people with professional experience. We recognize the importance of experience in other walks of life, as we have already heard mentioned today.

The Nation's lawmakers deal with complex matters. Surely, experience counts. Term limits would require legislatures to exit the system just as they are developing a working knowledge of how it does and doesn't work and are in a position to make changes as needed. Term limits would also limit the potential field of candidates for public office. Running for and holding public office is too expensive, too life-disrupting, too privacy-invading and too time-consuming to become a popular sabbatical of choice for dedicated and serious citizens who are pursuing other careers.

We in the League of Women Voters believe that there are many effective ways to deal with the public's disillusionment and anger and to reform the political process. Comprehensive campaign reform would be a good start. The public understands the role of special interests and big money in politics and the public understands that reform is needed.

We also need to reform the way that campaigns are run. We need to build civic activism. We need to encourage informed voting. What we don't need is a constitutional amendment to limit terms for Members of Congress, the voters don't need to be regulated.

Thank you, Mr. Chairman.

Mr. CANADY. Thank you, Ms. Cain.

[The prepared statement of Ms. Cain follows:]

PREPARED STATEMENT OF BECKY CAIN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

Mr. Chairman, members of the subcommittee, I am Becky Cain, president of the League of Women Voters of the United States.

I am pleased to be here today to express the League's opposition to amending the Constitution to set term limits for members of the U.S. Congress.

The League of Women Voters of the United States is a nonpartisan, citizen organization with more than 150,000 members and supporters in all 50 states, the District of Columbia and the Virgin Islands. For 75 years, Leagues across the country have worked to educate the electorate, register voters, and make government at all levels more accessible and responsive to citizens.

Mr. Chairman, our political system is failing the American people. Citizens are disgusted—and they have every reason to be—with the role of special interests and "big money" in the political process, with the emptiness of modern political cam-

paigns and with our government's seeming inability to deal in a meaningful way with national problems such as health care, crime and the economy. And just as the American people have a number of complaints about the ways in which government responds—or fails to respond—to their needs and concerns, so too are there a number of things we can do to fix the American political system. But, term limits for members of Congress are not one of them.

Rather, term limits are a smokescreen, a simplistic answer to hard questions about our government, questions that demand equally hard choices. It is easy, as it always has been, to holler, "Throw the bums out!" It is a more complicated, thoughtful process, however, to throw out the pieces of the system that are corrupting or that don't work and to keep and strengthen what's good and productive about our government. Term limits are a "meat axe" approach that does not distinguish between legislators whose careers deserve to be cut short and those who deserve reelection.

The League of Women Voters opposes congressional term limits for one basic reason—term limits interfere with the fundamental right of voters to elect their representatives. As an organization dedicated to protecting and enhancing the role of citizens in our representative democracy, the League strongly opposes term limits because they arbitrarily limit voter choice. We believe that voters can be trusted to elect their representatives without government stepping in to regulate their choices.

The truth is, we already have term limits. They're called elections. If we don't like the job that our elected representatives in Washington are doing, we can support other candidates and vote incumbents out. The most recent election provides the clearest demonstration of the power of the ballot box. Not only were the Speaker of the House, the Chair of the House Ways and Means Committee and the Chair of the Senate Budget Committee defeated, but control of both houses turned over, bringing to power new chairs for every committee and subcommittee in Congress, including this one. Approximately 40 percent of House members are now in their first or second terms.

Another truth bears repeating. The Founders who wrote our Constitution intended the electoral system to work in this way. They understood the central role of voting in a representative democracy. They understood that government should not regulate voter choice. The Founders debated term limits, first in the Constitutional Convention and then in the process of ratification, and term limits were rejected. As Alexander Hamilton said,

The people should choose whom they please to govern them. . . . This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed.

Robert Livingstone of New York put it this way:

The people are the best judges (of) who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights.

Term limits deny us, as citizens, the right to choose whom we think best to represent us and our interests. The decision about how long in office is long enough should be left up to the voters, who are the best judges of whether their interests are being served by the women and men whom they send to Washington.

In addition to arbitrarily limiting voter choice, here's what else is wrong with term limits:

Tenn limits would weaken the legislative branch of government—and strengthen an already powerful Presidency, upsetting the constitutional balance of powers. Congress must be able to form its own judgments on national issues, to come to consensus independently of the executive branch's policies, if necessary. A Congress of amateurs, however, would by its very nature be more pliable and deferential—and the institution would be robbed of its historic role of restraining the power of the Executive, who controls the entire federal bureaucracy. As a result, the branch of government closest to the people would become a less effective advocate for its constituents.

Term limits would result in increased reliance on congressional staff, lobbyists and other unelected "insiders." Novice legislators would depend much more on staff to sort out complicated issues and to keep things running—at a time when many argue that congressional staff is already too influential. Inexperienced representatives would also be forced to turn to Washington lobbyists and other "insiders" for advice on issues. This would mean that policy decisions and the oversight of complex issues, from regulating financial markets to international affairs, would in all probability end up largely in the hands of bureaucrats, presidential appointees and judges.

Term limits ignore the need for experience in management of public policy. There is nothing wrong with entrusting decisions about complex and crucial issues that can affect our lives and the world we live in to people with professional experience. We recognize the importance of experience in other walks of life. If I am going in for surgery, I want the senior surgeon, not the newest intern, to do the work. The nation's lawmakers deal with such complex matters as the world economy and meeting the needs of a modern society of 250 million diverse individuals. Surely experience counts. Term limits would require legislators to exit the system just as they are developing a working knowledge of how it does and doesn't work—and just as their developing understanding of the system would place them in a position to offer meaningful proposals for making it work better.

Term limits would put our elected officials in a position of always thinking about their "next job," giving them an excuse not to be responsive to the people who elect them. Elected representatives with a built-in cut-off date are less likely to be swayed by their constituents' interests and more likely to respond to the special interests who might provide them with a job—or at least a hand in finding one—after their term is over. And for many, congressional service will become merely a stepping stone to another office. From day one, term-limited legislators would make decisions—would be forced to make decisions—not necessarily with their constituents' interest in mind but with an eye to their own interest for the future. Instead of having "career politicians" who are committed to the institutions in which they serve and the constituents they represent, we have career politicians with an overriding commitment to, you guessed it, their careers.

Term limits would limit the field of potential candidates for public office. Running for and holding public office is too expensive, too life-disrupting, too privacy-invading and too time-consuming to become a popular "sabbatical" choice for dedicated and serious citizens who are pursuing other careers. Candidates running for term-limited offices will tend to be the rich or the retired.

Term limits would encourage legislators to consider the short-term over the long-term. Term-limited legislators would know for certain that they wouldn't be around to deal with the long-term consequences of many of their decisions. Their limited time in office would encourage them to focus on "quick fixes," gimmicks and programs that might be wildly popular at the moment but that might result in severe repercussions down the road.

We in the League of Women Voters believe that there are many effective ways to deal with the public's disillusionment and anger, and to reform the American political process. Comprehensive campaign finance reform would be a good start. The public understands the role of special interests and "big money" in politics, and the public understands that reform is needed. We also need to reform the ways that campaigns are run. We need to build civic activism. We need to encourage informed voting. What we don't need is a constitutional amendment to set term limits for members of Congress. The voters don't need to be regulated.

[NEWS RELEASE, FEBRUARY 3, 1996]

BECKY CAIN, PRESIDENT OF THE LEAGUE OF WOMEN VOTERS, TESTIFIES AGAINST CONSTITUTIONAL AMENDMENT TO SET CONGRESSIONAL TERM LIMITS

Washington, D.C.—Becky Cain, president of the League of Women Voters of the United States, testifies today before the House Subcommittee on the Constitution against amending the Constitution to limit congressional terms. "Our political system is failing the American people. There are a number of things we can do to fix the system. Limiting terms isn't one of them. The League believes the public needs more choices in elections, not fewer," says Cain.

Cain argues further that "the people should be allowed to decide who is best qualified to represent them. Term limits take away this choice. The assumption underlying the proposed amendment is that the voters cannot distinguish between legislators who deserve reelection and those who don't."

Outlining the consequences of such an amendment, Cain asserts that "(1) Term limits would weaken the legislative branch of government and strengthen an already powerful presidency by keeping out experienced legislators. (2) Congress needs the benefit of skilled, knowledgeable legislators to make good laws. (3) Term limits encourage legislators to pursue short term solutions and disregard long term effects."

"Term limits interfere with the fundamental right of voters and arbitrarily limit their choices. The League of Women Voters believes that voters can be trusted to elect their representatives without government stepping in to regulate their choices," concludes Cain.

Mr. CANADY. Thank you, Ms. Cain.
Next I will recognize Cleta Mitchell.

**STATEMENT OF CLETA DEATHERAGE MITCHELL, DIRECTOR
AND GENERAL COUNSEL, TERM LIMITS LEGAL INSTITUTE**

Ms. MITCHELL. Thank you, Mr. Chairman. I am happy to be here.

I think I owe Mr. Chairman Hyde particular gratitude because I said at the hearing that he conducted last summer that we were happy to be able to talk about term limits, but the day that we would really be happy was when we would actually have an opportunity to mark up a bill and really go forward with the legislation.

I appreciate the chairman's opposition, emotional opposition to term limits, but I also want to thank you for being willing, notwithstanding your personal views, to allow us to go forward with this legislation. That is quite a proper example to set for the country, and as a term limits supporter, I appreciate that very, very much.

Mr. HYDE. If the gentlelady would yield.

Ms. MITCHELL. Yes, sir.

Mr. HYDE. I just think this is a very important issue; it has enormous consequences. The public is very interested in it, having registered their interest; and I think if you can't debate it in Congress, then Congress is diminished. Too many ideas are squelched because they don't comport with the ideology of the regnant forces, and while I have not diminished my opposition, I think I would be much—I would be very remiss if I didn't advance this for debate.

So it is just—I will do it on other bills, as well.

Ms. MITCHELL. Mr. Chairman, I think if every committee chairman had always had that view that perhaps Congress would not be held in the low esteem that it has been. And I think that is a very important change of position, and we appreciate it.

Mr. HYDE. Perhaps I will have an abbreviated term limit on my chairmanship, but I think not. Thank you.

Ms. MITCHELL. Thank you.

We have listened to policy arguments all day, and I really do welcome the opportunity to be here. I am going to just make a couple of quick points, then I would like to ask that my remarks—obviously, my full remarks—be included in the record. And I would just like to address a couple of drafting issues, because we are at that point, and I feel very fortunate that we are at that point.

The first point I would make is this: Representative Frank said this morning that elections are important. Yes, they are very important, and there are over 25 million American voters who have voted for congressional term limits. I think that is significant, and I think that this principle of term limits is one that is meaningful, as Chairman Hyde has just noted.

I would point out that in the GOP Contract With America, I view the bookends of the Contract as being the balanced budget amendment and the term limits amendment, because those are two principles I believe that emanate from the very best of ideas coming out of the Constitutional Convention, that indeed it was intended that our Federal Government would be one of limited, enumerated powers, and one of the things that I think the American people sense

is that somehow that has gotten out of balance these last few decades.

But even more importantly, term limits is the only part of the Contract that affects Members of Congress personally. Someone said to me the other day, maybe what we ought to do is after the Members of Congress decide to limit how long a person can get a welfare check, we ought to then let welfare recipients decide to limit how long someone can get a congressional check. I say that tongue in cheek, but my point is, having served in a State legislature, I know that there are certain pieces of legislation and issues that come before you and it is very difficult to separate your own personal feelings and your own personal future from the consideration of the public policy implications.

I would urge the Members to lead by example, that all of us— if we are indeed going to reorganize the size of the Federal Government and decrease our dependency on the Federal Government, that this is the one Federal program upon which Members of Congress are dependent.

I would also like to make a point that I believe very strongly that term limits create an ongoing rotation, that open seat opportunities will create opportunities for women and minorities to take their rightful place in Congress. If you look at the statistics of this Congress, 81 percent of the racial minorities who serve in the Congress today, in the House of Representatives today, were elected in open seats; 72 percent of the women who are currently serving in the House of Representatives were elected in open seats. I think that we will have a more representative body, not just in terms of race and sex, but also in terms of variety of experience, as we are seeing now with the turnover that we have had.

But I would like to now depart and talk just briefly, touch on some of the issues that have come up today. There has been this discussion about how many years is appropriate for House Members. I go back, again, to the Constitutional Convention and the fact that we wouldn't even have had a Constitution if they hadn't worked out the great compromise between the big States and the small States and that is why we have the House and the Senate. I would urge the Members to treat the House and the Senate the same.

I see my time has expired. I will be happy to talk about the rotation principle versus the lifetime ban and the issue of retroactivity. My one caution to you is, let's decide what it is we want to say and then say it clearly. If we are going to make it retroactive, let's say that; if it is not going to be retroactive, say that. Let's not leave it for litigation.

I think Congressman Hyde is correct, this is the proper forum for determining those things, not the courts; and so I would just urge you to please address those issues and state—whatever is the policy principle, let's say it clearly. Thank you.

Mr. CANADY. Thank you very much.

[The prepared statement of Ms. Mitchell follows:]

PREPARED STATEMENT OF CLETA DEATHERAGE MITCHELL, DIRECTOR AND GENERAL COUNSEL, TERM LIMITS LEGAL INSTITUTE

My name is Cleta Mitchell. I am the Director and General Counsel of the Term Limits Legal Institute in Washington, D.C. The Term Limits Legal Institute was es-

tablished in 1991 as a project of Americans Back in Charge, the first national term limits organization devoted to helping grassroots citizens committees in the various states follow the example of Colorado in 1990, limiting the terms of members of Congress by state action. The Term Limits Legal Institute was created to defend the right of citizens to vote on term limits proposals and then to defend those enactments in the courts once passed by the voters. We all are aware of the litigious nature of our society. This is true as well in the political arena. Since 1990, the term limits movement has been confronted with over 30 different lawsuits challenging the right of voters even to have the opportunity to consider the issue of term limits and then seeking a "second opinion" from the courts after the voters' verdict in favor of term limits was delivered in state after state or city after city. I served as co-counsel for the State of Arkansas in the case now pending before the United States Supreme Court regarding the term limits law enacted by the voters of that state—by a 600 margin.

I am pleased to be in this forum today, because I believe that it is in the political arena—not in the courts—where the decision about term limits for members of Congress should be decided.

There has been much discussion today about the public policy reasons for limiting congressional terms. However, I have only three points to add.

First, I believe it is significant that the Contract with America adopted by Republican candidates last fall included a commitment to bring the term limits constitutional amendment to the floor of the House for a recorded vote. I am one of those rabid term limits supporters who believes that we should have a final recorded roll call vote on term limits—and that we should decide that those who vote in favor of term limits are our friends and those who vote against term limits are not.

This is the most important point I would like to make today: Term Limits is the most significant part of the Contract with America—because it is the only part of the contract that affects members of Congress personally. That is why it is so important, especially for the Republican members who have signed The Contract, to vote in favor of term limits.

It is the other bookend of the Balanced Budget Amendment. It is the commitment to return to the principles on which this country was founded: a limited federal government and less dependency on Washington by all of us—including, less dependency on the federal government by Members of Congress themselves.

Term Limits is the only part of The Contract in which members of Congress can demonstrate that if we are really to balance the federal budget, it will take sacrifice from all of us. Everyone has to be willing to reconsider his or her federal program, if our federal government is to survive at all. That includes members of Congress. Members of Congress must lead by example.

In all this discussion of welfare reform and term limits both as part of The Contract, maybe after Members of Congress decide to limit how long someone can receive a welfare check, we should let welfare recipients decide how long someone can receive a congressional paycheck.

While that is really only a "tongue in cheek" suggestion, I must say that I don't have much admiration for Members of Congress who are more than willing to limit everyone else's federal program or entitlement, while voting against limiting or ending their own. The entitlement program of careerism in Congress has to stop, too.

Fortunately, we have many, many members of Congress who are responding to the will of the people of this country, who are willing to say that the voters are in fact sovereign and that no person in the Congress is indispensable. I have great respect for the many members of Congress with whom I work every day. I know how hard you work; I know how hard it was to get these jobs, to keep them—and to do a good job while you have them. I think you would find your lives made a lot easier by the knowledge when you arrive here, there is a time certain when you must leave. But whether you agree with that or not, I will tell you that it is bad manners, at the very least, to struggle against this principle of limited control of a public office that doesn't belong to you in the first place, no matter what it took for you to get it in the first place.

These seats belong to us. Not you. Give it your best shot for awhile—and then go on to something bigger and better. Having been a Member of Congress will never look bad on your resume.

I believe very strongly that the American people are watching carefully to see what you do on term limits. And if you fail to pass any term limits proposal, you will only rekindle the anger that has been growing among the public these past few years—which has dissipated somewhat as we have witnessed a cause effect relationship between how we vote and what happens. Don't think that you can abandon that principle at this point on this issue. You can't—and still keep faith with the American people.

Second, any term limitation should treat the House and the Senate equally. As we all recall from our history and civics classes, the first great hurdle at the Constitutional Convention was the tension between the small and the large states. "The Great Compromise" that created the bicameral Congress with both a House and a Senate, based on separate forms of representation to accommodate the concerns and anxieties of both small and large states, was the central underpinning of the constitutional convention. Absent that compromise and the agreement to establish a Congress with 2 houses—equal in stature and authority, but differently designed—there would have been no constitution.

I do not believe that it is our task here to tamper with that design. We are not here today and we should not be in the business of tinkering with the relative strength of the House vs. the Senate. I believe that such an approach allows us to address the problems and the issues related to term limits without doing damage to the relative balance of power between the House and the Senate or the Great Compromise of the Philadelphia convention.

I served 8 years in the Oklahoma legislature as a member of the House of Representatives. It is my considered opinion that there is not a House of Representatives anywhere on the planet that will pass a measure that allows Senators to serve in office twice as long as they can. I believe that we should be focusing our energy on the principle of term limits and garnering support for a measure that can be successfully achieved—rather than wasting time fighting over something that is neither desirable nor attainable, namely, the 6 year term limit for House members. Frankly, the lessons of the balanced budget amendment are instructive for those of us who care about term limits: getting something passed is the most important thing we could do. That is worth remembering in this effort.

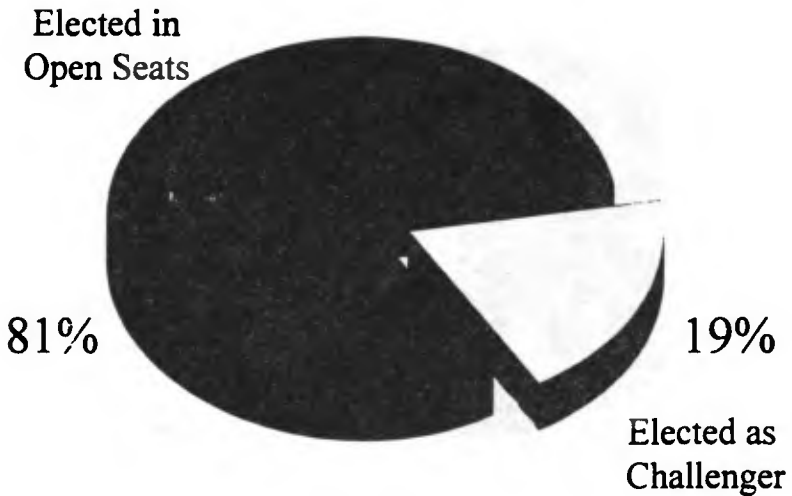
Besides, the experience in the states is not as one-sided in favor of 6 year limits for House members as some might have you believe. In the only state that has voted on both 6 year and 12 year limits on the members of the House of Representatives, Colorado, the 12 year limit received 153,000 more votes than did the 6 year limit. While I realize that in the past few years there have been polls indicating that people were so angry at Congress that they would probably have supported a term limit of 6 months, I also believe that when the American voter steps into the polling booth, a sense of great responsibility sets in—and the evidence from Colorado is, I think, compelling.

Finally, term limits is the passageway by which women and minorities can begin to assume their rightful places in the halls of Congress. A statistical analysis of the 104th Congress demonstrates that 72% of the women and 81% of the minorities serving in the House of Representatives in this Congress were elected in open seats. See Attached Charts. The open seats established by regular, mandatory rotation would provide opportunities for women and minorities to be elected to Congress that have not existed in the history of our nation.

For all of these reasons, we urge you to consider congressional term limits as an important promise to the American people—and not to put your personal careers and enjoyment of office above the wishes of the people of this country. This vote—above all others you will cast—doesn't belong to you. You should cast it accordingly.

Thank you.

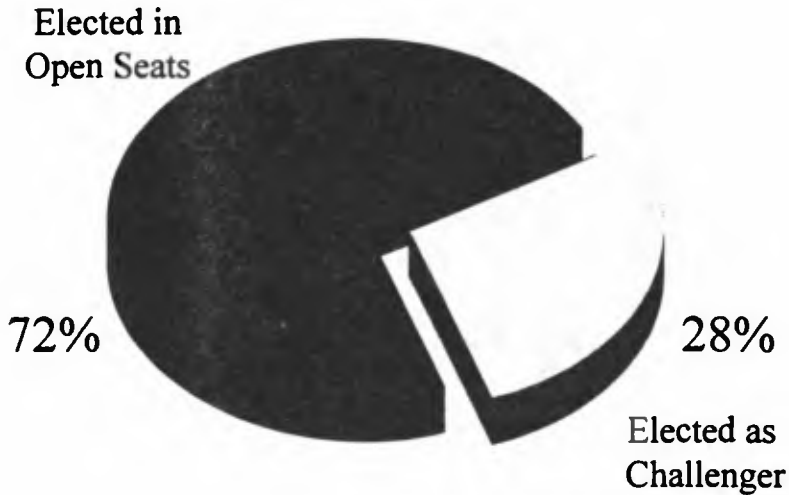
**Percentage of Minorities
Elected to the House of Representatives
in Open Seats**



**Total Number of Minority Members in 104th Congress: 59
Number First Elected in Open Seats: 48**

Sources: *Politics in America, 1994: The 103rd Congress*, (CQ Press 1993.); *Congressional Quarterly*, November 12, 1994. Federal Election Commission 1994 Election Report released December 22, 1994.

**Percentage of Women
Elected to the House of Representatives
in Open Seats**



**Total Number of Women Members in the 104th Congress: 47
Number First Elected in Open Seats: 34**

Sources: *Politics in America, 1994: The 103rd Congress*, (CQ Press 1993.), *Congressional Quarterly*, November 12, 1994, Federal Election Commission 1994 Election Report released December 22, 1994

Mr. CANADY. Mr. Wertheimer, you get the last word.

STATEMENT OF FRED WERTHEIMER, PRESIDENT, COMMON CAUSE

Mr. WERTHEIMER. Thank you, Mr. Chairman. Our organization opposes term limits. We share the view that Chairman Hyde has expressed—that the freedom of voters to choose the person they want is the heart of democracy. We share the view that Chairman Orrin Hatch has expressed in the Senate—that real term limits are at the ballot box, and that is where they should be.

It is our view that this issue goes to the essence of what the vote is about in our society and what the vote means in our democracy, and that in creating a system of term limits what we ultimately do is take away from the individual an integral piece of what is perhaps their most important asset in our democracy—their ability to choose.

We also share many of the concerns that underlie the widespread popularity that exists for term limits. I think we all recognize that there is widespread support in the country today for term limits. We believe part of that support comes from a sense that Congress is a place that represents others and does not represent me, the average citizen. We think part of it comes from a sense that the system here is extraordinarily unfair to challengers, which it is, and a frustration that perhaps the only way in which a desire for change can be implemented is by having some automatic rule.

I want to identify myself with Representative Inglis and oppose what Mr. Mann said, going back to their discussion about the question of the power of incumbency and what 90 percent reelection rates mean. We had 90 percent reelection rates in a sea change election. In that sea change election, two out of 26 U.S. Senators were defeated, and more than 90 percent of House incumbents were reelected.

We have no problem and we have no interest in seeing incumbents defeated or seeing challengers win. What our interest is in is a fair system, an opportunity for people to compete, and without that, you do not have accountability. Accountability today in our system is built into the notion of elections. If you don't have the ability to really run and challenge an incumbent, you don't have a real election, and no matter how much turnover you wind up with, if in fact an incumbent because they are an incumbent is close to guaranteed reelection because they are going to get extraordinary financial advantages, you have a fundamentally unfair system. It is a system that has shut out the "outs," and it has shut out over the years people who do not have access to money; and frankly, access to money in this system comes with a simple word before your name, Representative or Senator. That guarantees access to money, and absent it, unless you are really wealthy, you are going to have a very hard time getting it.

So we believe that fundamental concern has to be addressed. For those who oppose term limits, there is an enormous stake in dealing with this fundamental problem in the political system. If, in fact, term limits are going to be defeated and we are going to move past this period.

I want to make one other point, which goes to a somewhat larger question, and it goes to the role that the Judiciary Committee plays. When you pass legislation in Congress, you tend to deal with periods of years or decades, or perhaps even more than that; but when you deal with the Constitution, then you potentially deal with centuries. This is of a different level, this responsibility; and as I look at this Congress and this committee, which has jurisdiction in this area, I see that we have a proposed balanced budget amendment, a proposed constitutional amendment to create three-fifths vote for taxes, a proposed constitutional amendment for unfunded mandates, a proposed constitutional amendment for line-item veto, a proposed constitutional amendment for term limits, a proposed constitutional amendment to deal with prayer in school, a proposed constitutional amendment to deal with the abortion question, and we will shortly be hearing from some people a proposed constitutional amendment to overturn the *Buckley* case.

I would submit to you that either the Constitution of the United States is one of the most important documents in the history of civilization, in which case it has extraordinary weight and must be dealt with very carefully, or it is a piece of paper to rewrite; and if we are seriously looking at this Congress giving serious consideration to this kind of approach to the Constitution, then I would hope at least this committee thinks long and hard before it goes down that road. I don't think this committee or this Congress should take on the responsibility of replacing the Founding Fathers without being very, very careful about it.

Thank you.

Mr. CANADY. Thank you, sir.

[The prepared statement of Mr. Wertheimer follows:]

PREPARED STATEMENT OF FRED WERTHEIMER, PRESIDENT, COMMON CAUSE

Mr. Chairman and members of the committee, I want to thank you on behalf of Common Cause for the opportunity to testify today.

Term limits for Members of Congress are an undemocratic solution to a very serious problem.

While Common Cause shares a number of the frustrations that have fueled the effort to establish term limits for Members of Congress, we strongly oppose this remedy.

We believe that citizens should continue to have the right and freedom to support the congressional candidate of their choice. We believe that an accountable and competitive political process must be reestablished without constraining the power and authority of the vote, the cornerstone of our system of representative government. We believe there is value in a Congress of 535 individuals that includes some Members, chosen by their constituents, who bring longer term perspective and experience to the institution.

We recognize that there is widespread popular support for term limits and that it stems in part from the view that Members of Congress have become remote from average citizens, dependent on and obligated to special interests and their political money and locked into office by a campaign finance system that provides extraordinary and unfair financial advantages for incumbents over their challengers.

We believe that the way to address these underlying problems, however, is through fundamental political reform that curbs the undue influence of campaign contributions over government decisions, creates the opportunity for challengers to run competitive campaigns against incumbents and makes Members of Congress accountable to their constituents, not to monied interests.

We believe that a competitive and accountable political marketplace in which citizens are free to vote for whichever congressional candidates they wish to support is the way to revitalize our democracy. We believe that the vote should continue to be the way in which citizens limit terms for Members of Congress. We believe it

should be up to constituents, not a constitutional amendment, to decide when to end the service of a Representative or Senator.

TERM LIMITS UNDERMINE THE RIGHT TO VOTE

Term limits for Members of Congress undermine the right to vote and are undemocratic. Term limits impose an arbitrary restriction on a fundamental right in our political system. They deny some citizens the ability to run for office and other citizens the ability to vote for the individual they believe will best represent their interests in the United States Congress.

We share the view expressed by Representative Henry Hyde (R-IL), Chair of the House Judiciary Committee, that the freedom of voters to choose the person they want "is the heart of democracy" and that a fundamental weakness of term limits is its "distrust of the people, the electorate who, every two years for the House of Representatives, must renew or cancel a Member of Congress' lease on office." We share the view expressed by Senator Orrin Hatch (R-UT), Chair of the Senate Judiciary Committee, that "real term limits is at the ballot box, and that is where it should be."

We recognize that the current system of financing congressional elections has made it extraordinarily difficult for challengers to defeat incumbents and in so doing has seriously undermined the accountability of Members to their constituents and the notion that real elections are occurring in races involving incumbents. Even in the sea-change elections of 1994, for example, 24 of 26 Senate incumbents and more than 90 percent of House incumbents who sought reelection won. But the key to solving this fundamental problem is creating a new campaign finance system that provides the opportunity for competitive elections and restores political accountability for Members of Congress. This accountability will not be achieved by term limits, which within the terms of service allowed will leave in place many of the problems that exist today. In October 1990, George Will said, in opposing term limits,

Politics in our time has been ennobled by the long careers of such Senators as John Stennis, Hubert Humphrey, and Henry Jackson. Granted, long service is only a necessary, not a sufficient, condition of legislative greatness. Granted, greatness is rare, even among those who have long careers. But it should not be made impossible.

In October 1991, George Will said he had changed his mind. Too bad. He was right the first time. Mr. Will should have stuck with the Founding Fathers.

In *The Federalist Papers*, James Madison discusses the value of congressional experience, writing, "A few of the members [of Congress] . . . will possess superior talents; will, by frequent re-elections, become members of long standing; will be thoroughly masters of the public business, and perhaps not unwilling to avail themselves of those advantages."

Representative Hyde has pointed out that term limits denigrate the value of experience, implying that government is less important, less worthy of studying and mastering, than dentistry or architecture or music. "When a crisis comes, you want people who have been tested—and you don't get them out of a phone book," Representative Hyde has said.

Certainly it would not be beneficial to have a Congress made up entirely of individuals who have held office for long periods of time. Change, and more importantly, the opportunity for change, is important to the health and vitality of our political system. By the same token, we do not believe it would be beneficial or healthy for our political system to have a Congress of 535 Members that, by definition, has not one Member who brings the experience of having served more than 12 consecutive years, or six consecutive years. There is value to having some individuals in Congress who have institutional memory and longer term perspective, provided, of course, that their constituents have chosen to elect them.

And the fact remains that there has been an especially large turnover in Congress in recent years, even though it has occurred primarily through open seats. A majority of the current House of Representatives, for example, has been elected since 1990.

THE RISKS OF TERM LIMITS

In addition to taking a fundamental voting right away from citizens, term limits pose a number of risks that could exacerbate the problems facing Congress as an institution. Term limits are likely to increase the power of lobbyists and organized special interests, congressional staff and executive branch officials. And as Senator Hatch has noted, "none of those three groups are elected to represent anyone." As columnist David Broder has warned, "[T]he unintended consequence of term limits

will be to increase the power of unelected officials—legislative staffs and executive branch bureaucrats. Their expertise will become even more influential when the elected officials are all short-timers, and their arrogance will grow.”

The power of the permanent Washington special-interest culture is likely to greatly increase under these circumstances, and all the more so if effective campaign finance reform is not achieved. Term limits also create the potential danger that more Members of Congress, on an institutionalized basis, will curry favor with special interests as their deadlines approach and they look to their next careers. As Wall Street Journal columnist Al Hunt has written “[I]nstead of fresh-faced citizen legislators we’d end up with men and women who knew that after 12 years they had to seek a new line of work, most probably with the very interests that are lobbying them.”

FUNDAMENTAL POLITICAL REFORM

The term limit movement has been driven by a widespread and deep mistrust and lack of confidence in Congress and in state legislatures. The image of entrenched incumbents and monied special interests taking care of each other at the expense of the average citizen has done much to lead voters to believe that the only way to break these links and restore the power of the citizen is through term limits.

But as serious as our current problems are, they do not justify undermining a fundamental constitutional right and the key to our system of democracy. Congress must recognize that the public’s patience has run out and that the scandalous campaign finance system in Congress has to be reformed to address the root problems that exist. Congress should move quickly to enact political reform and should reject term limits for Members of Congress.

We strongly urge you to vote against any constitutional amendment to establish term limits for Members of Congress.

Mr. CANADY. I have a brief question for Ms. Mitchell.

You alluded to this in your concluding remarks. What is your view on whether term limits should apply to lifetime service or should be a limit on consecutive terms?

Ms. MITCHELL. If I were queen and I got to pick, I would make it a rotation principle. I think you have two considerations. I would deal with consecutive terms only, allowing for people to come back into the Congress later, I would do it in such a way, however—my personal belief is that you should do it in such a way as to avoid creating the opportunity for the “Lurleen Wallace, I can’t succeed myself so I am going to run my wife for this one time, then I will come back in,” it has to be for a sufficient period of time that you really create an open seat.

The State of Washington passed its term limits law, and it is written so that I think theirs is a 6-year—I will get to that in a minute if you want to talk about it, but it is based on cannot serve 6 years in any 11- or 12-year period; and the Senate is 12 years out of an 18-year period.

But I think that there is value in the rotation principle, and indeed it was—that was the principle that was discussed and was present at the time of the Constitutional Convention and was followed by people voluntarily. It was considered rotation; it wasn’t considered going, staying, and then leaving forever. And indeed they did rotate, coming back to Congress, going back to their States, et cetera.

Mr. CANADY. Thank you. That is all I have.

Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman. I wanted maybe the folks on opposite sides of this issue to kind of flesh this out for me. I am hearing Mr. Fetzer, or Mayor Fetzer, say that what we are doing—I think I am quoting him right—what we are doing—we need to be doing what our constituents are telling us to do. And I have

heard that kind of theory run throughout the discussion this morning that because there is a public demand for this amendment, we ought to be going forward with it.

Then I hear the other side of the argument which is that we expose ourselves to the public every 2 years, as Members of the House at least, and if the public really wants to speak to us, they have that opportunity to do it. And I am just—I am having trouble reconciling those two arguments because they seem to be saying the same thing, but reaching a different conclusion. And I am wondering maybe I could get Tom to flesh out his side and maybe the League of Women Voters or Common Cause representatives to flesh out the other side for me.

Mr. FETZER. I think, Congressman, in an attempt to accelerate my remarks with an impending vote, I may have not stated it clearly enough, but the quote in the Washington Post this morning I think is a sign of the danger to a body that is so tuned into the whims of the electorate.

I do think that term limits would create a deliberative distance, if you will, to allow Congress not only to listen to their constituents but also in this republican form of government to reach a decision based on merits and not based on how is this going to affect my next election campaign. I think that term limits have become more and more important as the fundamental nature of the body you serve in has changed over the years from more of a part-time organization to where it is a full-time, virtually year-round task.

I am a part-time public servant. The mayor of Raleigh makes \$16,200 a year. I am not expected to live on that salary, so I am forced to get out in the marketplace and earn a living. I must confess to you that there are many days where that is a real pain in trying to keep different balls up in the air, and there are some days that I wish this job I have was a full-time job that paid a full-time salary; but it forces me to get out there with my constituents and hustle. It limits my willingness and ability to move government into areas of people's lives that it is not there currently, and I think there is great validity in being a part-time public servant.

So I think this body has one of two choices. I think it can either continue as a full-time career and impose term limits, because I think the balance over time is too heavily weighted to incumbents to make it fair, or return to 30 or 40 years ago when it literally was—it was a part-time occupation; you came up here, you passed laws, you went back home and you made a living.

Mr. WATT. Before my time runs out, let me hear the other side. I am not trying to cut you off, I am just trying to leave enough time.

Ms. CAIN. Very quickly, we believe, we cannot understand why someone who cannot be reelected would be more responsive to the citizen's needs than someone who can. If you have got to come to me every 2 years, why would you then be less responsive to me than if you could never come to me for my vote?

We also believe that term limits narrow our choices instead of broaden our choices. If you served me well, why should the government tell me you can no longer serve me?

I have also had people anecdotally tell me, I am happy with my Member of Congress. In Ohio they told me they were very happy

with Senator Glenn; however, they were not particularly happy with the Senator from Massachusetts. This was a way for the people in Ohio to deal with the Senator from Massachusetts.

Mr. WATT. Did you have a response?

Mr. WERTHEIMER. Yes, I did. We are a citizens lobbying organization, and we believe Members of Congress should listen carefully to their constituents. But then ultimately we believe Members of Congress should make their judgments based on what they think is right; and there are certain issues that are leadership issues that require leaders to lead whether it is popular or not. This one is somewhat awkward for Members because it requires you to lead in a way that some people would consider to be in your self-interest.

But that is what we think you should do on this issue. You should reject what appears to be a popular sentiment and protect the larger issue at stake here, which is our fundamental concept of democracy and the fundamental role of the voter in our society.

I don't particularly share your view that you are putting yourself out there every 2 years, because while you are running, you are doing it—not you necessarily, personally—in a system that is too unfair to others. But this is an issue where in order to vote against this, you would have to vote against popular will, and that is very much what we urge you to do.

Mr. CANADY. The gentleman's time has expired.

Mr. Hyde.

Mr. HYDE. I thank the gentleman, and I will have to talk fast. I have a few things I do want to say.

Distance from the electorate: You are representing the people, not a distance, and either we are too responsive and we knee-jerk whatever they say, or we are too remote, we are out of touch. I wish our opponents would give us one theory; otherwise they suffer from standing on two stools, which is a great way to get a hernia.

Angry populism was a great phrase that Tom Mann used, and ever since Watergate, ever since Iran-Contra—and by the way those didn't really involve Congress—politics has had a bad name. You superimpose on that the negative campaigning, which the consultants have imposed on us, and no wonder people don't like politicians. The word is synonymous with corrupt, and so everybody wants to turn the rascals out as quickly as possible.

Edmund Burke had an answer to all that in his famous letter to the electorate of Bristol, where he talked about, owing your highest fidelity to your constituents, but you don't owe your conscience to anybody; and that is what I think Mr. Wertheimer was talking about.

Let me tell you, Mr. Wertheimer, all those constitutional amendments—this is just between you and me, and I am whispering this to you—ain't gonna pass; but nonetheless, sometimes it is the only way you can express yourself when the Court uses the Constitution as silly putty, so you file an amendment and it gathers dust, and nothing happens.

But nonetheless, could I give you a perspective you may never get, and that is from the incumbent's perspective, not the challenger's. It is 11 at night, January 17th. The snow is swirling, and I am seated in the Empress Banquet Hall in Addison, IL, dying to get home, but they haven't introduced the superintendent of streets

yet. And it is moving on 11, and I look out the window and I say to myself where is my opponent? Why, he is home, stroking a collie dog with a snifter of Courvoisier, a Partegas cigar, watching the Playboy channel. I am there simulating interest and enthusiasm, and it is never going to end.

Now, multiply that weekend after weekend after weekend 24 hours—not 24 hours a day, but 52 weeks a year—believe me, you had better make those Christmas parties; and I am just telling you, I ought to have a leg up, I ought to have better name identification.

Now superimpose on that constituent service. We don't ask if you are a Democrat or a Republican, left-handed or right-handed. We hope they are Democrats, so maybe we can convert them, make them vote for me, but service, service, service, service. How do you even that up with some guy who wants your job?

Now, you have voted on thousands and thousands of issues, and they can be interpreted any way you want. Every time I run into a nursing home, somebody rushes in with a pamphlet saying I vote against senior citizens because I voted for the Gramm-Rudman thing years ago. You have thousands of votes to defend; and your opponent is Camelot, he doesn't have to worry.

So it isn't all a day at the beach being an incumbent. You earn the respect you have. Believe me, if they are mad at you, they can get rid of you, as we all know.

And one last thing, when it comes to money, there ain't no money like an editorial in your favor. Believe me, if they want to get rid of you, you can have all the signs and all the—but if the newspapers who are looked upon as fair and objective and guardians of the community want to whack you—just look at Dan Quayle, look what the—no money was involved. They just made him an object of ridicule. In my judgment, I think they ruined his career. I don't mean to give him a hex if he wants to run for President, but believe me, candidates don't have it so tough. If the man doesn't deserve or the woman doesn't deserve to be reelected, just tell that story, and the papers will help you, but being an incumbent, you earn that name I.D. through service and through the investment of the one precious thing you have that is never going to be replaced—time.

Thank you. No questions, no answers necessary.

Mr. CANADY. Mr. Hoke.

Mr. HOKE. I had hoped I was going to be able to avoid following our chairman. I dodged the bullet last time when you called a recess, but I guess it wasn't to be this time.

I have to disagree with a number of things that we have heard. I think that it is clear that the public opinion of Congress has gone down and down and down, and I would like to give a different idea of why that has happened.

I think that the corruption issues, the peripheral issues, the idea that people have been here too long or have become entrenched or careerists, I think that these have very little to do with why people are upset with Congress. I think that the reason that the public opinion of Congress has gone down so dramatically is because of what we have done to the American people. That is what creates the tremendous dissatisfaction and frustration, and in fact ignominy, which has been pegged on the U.S. Congress. And no honor

will accrue to this Congress until it gets in step with what the people of America want, and it doesn't matter if we have term limits or if people are here for 2 years or 4 years or 6 years, so long as they are not doing what the mainstream of America wants to see done with this country.

I will also say that one of the strongest arguments, I believe, for term limits is that by having them in place, we will in fact make this a more representative body that will be more in step with and in tune with what America wants.

Mr. Wertheimer, I wanted to ask you a question. You indicated that you think that clearly it is a very unfair playing field, it is not a level playing field for challengers, but you are opposed to term limits, and you think all of this can be solved through campaign finance reform. Is that the gist of it?

Mr. WERTHEIMER. All of it? I don't think all of anything can be solved through campaign finance reform, but I guess—

Mr. HOKE. The issue of an unfair playing field.

Mr. WERTHEIMER. I guess our notion is, we believe in the marketplace here, and what we would like to see is a political marketplace, a marketplace of ideas, a marketplace of competition.

We don't have a competitive political process, and we think that, as you know, comprehensive campaign finance reform could do three things: It could reduce the influence, undue influence, in our view, of political contributions in this institution; it could create the opportunity for more competitive races involving incumbents; and it could also help to reduce the deep cynicism that exists in this country over whether this system is rigged and fair to people.

Nothing will solve all problems, and certainly term limits won't, but what we believe is the best solution would be a competitive political process and elections that are real. And in that sense, we believe the kind of accountability that is envisioned in this system would take place; a term limit system with this campaign finance system and with the potential kind of unaccountability that exists today could wind up with 12-year terms of unaccountability, and it might cure one problem from the standpoint of people who support it in terms of more senior Members, but to us it wouldn't cure the central problem.

Mr. HOKE. Well, I would not disagree with you that there is a real problem with respect to campaign financing, although the solutions that have come out of Common Cause have certainly not been any to which I would subscribe, especially the public financing of campaigns. But I think that we ought to eliminate special interest contributions from political action committees. I think that we ought to require that a majority of contributions come from within an individual's district that he or she serves and represents. I think that that would have a real impact.

In fact, I would go further than that, but as you know VAO flies in the face of it. I would recommend, and I would vote for a requirement that 75 or 80 percent of a Member's finances and contributions come from within the district.

Thank you, Mr. Chairman.

Mr. WATT. Will the gentleman yield?

Mr. HOKE. I don't really have any time, but I would be happy to yield.

Mr. WATT. I just wanted him to make sure he talked to me before he decided to vote for that. I want to debate that with you at some point.

Mr. HOKE. Which was that?

Mr. HYDE [presiding]. I can see an interesting scenario where one candidate comes from the poor side of town and one comes from the rich side of town. The guy from the rich side of town is all for raising the money in the district, but you can't go to New York or somewhere else and raise money. It is interesting. For every solution there is a problem.

The gentleman from Virginia, the distinguished gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman. I would like to follow up with Mr. Wertheimer, too.

In fact, I would like to give you an opportunity to respond to what the chairman said because I think while he and I differ diametrically on the issue of term limits, I would agree with his description of how we earn and gain political advantage. Members of Congress—Mr. Watt may help the most staunch Republican in his district to get some problem solved with social security or something else, and that person will then vote for him for the rest of their life because of that, even though they may disagree with him ideologically. It is a tremendous advantage for the incumbent.

The same thing with the opportunities that are presented to Members to speak about and attend. We get all the invitations; the challenger doesn't get those. How will you ever solve those problems? How will you ever create the level playing field that you are talking about with things that are nonmonetary?

Mr. WERTHEIMER. We are not interested in solving those problems. You should have advantages if you are doing your job well and you are performing. We don't argue that point. Our argument has to do with the financial advantage that comes not necessarily because you are doing your job well, but because you have power to exercise.

Mr. GOODLATTE. You don't see any conflict between our oversight responsibility of the executive branch and our legislative responsibility in terms of our relationship to our constituents?

Mr. WERTHEIMER. I don't understand your point.

Mr. GOODLATTE. My point is that Mr. Watt is now being re-elected not because of the position he takes, but because—and I don't direct this at him personally—but with that particular voter, not because of his stand on the legislative issues but because of work that has been done with a staff that has been provided and paid for that helps to build up constituent service. If you didn't have the staff, you wouldn't be able to do all that.

Mr. WERTHEIMER. We don't know that. What we do know is that most of the challengers who run against you have no money, no money, and most of you are able to raise very large sums of money—in the House in particular—from political action committees, in good part because you are in power and in a position to be helpful to them, so that the distribution of money from PAC's to incumbents over challengers is something like 10 or 12 to 1, so—

Mr. GOODLATTE. I fully agree with you.

Mr. WERTHEIMER. All I am saying is, if you have a system in which incumbents get the great, great bulk of money and most challengers don't get any money, you don't have an opportunity for competitive elections. We are not talking about leveling the playing field in every aspect or taking away the advantages that come from performance or from being in the job. We just think challengers have to have a chance to run against incumbents.

Mr. GOODLATTE. One way to level the playing field is to have two candidates for an open seat.

Ms. MITCHELL. One of the things that we have to remember is that the campaign finance system that we have today was created by Congress.

Mr. GOODLATTE. Sure it was.

Ms. MITCHELL. The idea was, we are going to fix this problem, in 1974—we are going to pass some legislation, create a government agency, appropriate some money and everything will be fine. Well, everything isn't fine, so now both Common Cause and the League of Women Voters are here today to oppose term limits.

Both favor doing what? Having some more regulations and spending more money to fix the problem.

Mr. GOODLATTE. Not only do the campaign finance laws that were created as a reform in 1974 favor incumbents, but in addition, the size of the staff in the Congress, now 38,000 people, that was created by the Congress, and if you don't think that that is a benefit that inures to incumbents, you know, I think you are very wrong.

I think if you go and cut back on the size of the staff here that is able to do all manner of things for all manner of voters, that you would have a different point of view on the part of voters as to whether somebody is as indispensable as they think they are in the Congress; and the same thing goes with the franking privilege, and the list goes on and on and on.

Congress has bestowed these things upon themselves. The people have spoken and said they want something done from a procedural vantage point.

And finally, we have never even in this conversation talked about the effect of the seniority system on this whole process. Those Members from the safest districts accrue the greatest power and have, in my opinion, taken away some of the aspects of the representative democracy that we have in this country.

If I might allow him to respond—

Mr. WERTHEIMER. We don't have too much seniority left around here these days.

I would respond this way—

Mr. HOKE. That is not true.

Mr. GOODLATTE. I beg to differ.

Mr. WERTHEIMER. First of all, just a small footnote that won't matter to anyone else; we didn't get what we wanted in 1974. You talk about that as reform. In terms of the congressional campaign finance system, that was not what we were supporting.

Mr. GOODLATTE. Doesn't that prove my point?

Mr. WERTHEIMER. But let me continue. Let me continue.

There is a new majority in this institution. In addition to term limits, there are a series of problems that most people have recog-

nized—franking privilege, campaign finance—you have an opportunity to correct those problems. I submit to you—

Mr. GOODLATTE. I have a bill in to do some of those things.

Mr. WERTHEIMER. I submit to you that if you were to have term limits tomorrow and not deal with these issues, the cynicism in this country would continue, the deep concern and disrespect for the institution would continue, so I think you must address those problems.

Mr. GOODLATTE. I agree, but I think we need to do both because I don't think you can realistically expect the one to solve the concern that is being expressed by the vast majority of the voters.

Thank you, Mr. Chairman.

Mr. HYDE. The gentleman's time has expired. I someday hope to understand, and maybe not in this lifetime, how we are going to answer the hundreds and hundreds of letters you get from constituents if you don't have some way to have the postage paid for. If we are expected to pay for it out of our own pocket, there would be a lot—

Mr. GOODLATTE. Would you yield on that, Mr. Chairman?

Mr. HYDE. Oh, sure.

Mr. GOODLATTE. It seems to me—I think that is a very valid point, but it is something we have to acknowledge is certainly an advantage to us. If we didn't answer the mail because we didn't have the staff or the postage to do so, we might have a different attitude out there.

Mr. HYDE. Do you think that is serving the people, not answering their letters?

Mr. GOODLATTE. No, I don't think it is. I think it is a valid point.

Mr. HYDE. Why do we keep complaining about the franking system?

Mr. GOODLATTE. Because there is a lot of unsolicited—

Mr. HYDE. Should we lick stamps instead of having it printed on the envelope?

Mr. GOODLATTE. I think unsolicited mail is the complaint.

Mr. HOKE. It has nothing to do with the issue of just responding to the letters we receive. The question is when we are spending \$160,000 to \$170,000 a year on mail that we initiate, that we send out.

Mr. HYDE. Let's outlaw that. That is easy. I don't send unsolicited mail.

Mr. HOKE. I don't think that is so easy.

Mr. GOODLATTE. I have a bill.

Mr. HYDE. Let's go.

Mr. WATT. Mr. Chairman, I am down at the bottom on that mailing list, too, but I would tell you if we couldn't respond—at least respond to the mail we got, then it would be tilted in the other direction, because then we would be looking at citizens who say that the incumbents have gotten so above themselves, they won't even bother to respond to the mail they get.

Mr. GOODLATTE. I am not advocating that. I would simply say, if you are going to address this problem, you are not going to ever solve it by simply the reform Mr. Wertheimer advocates nor should you solve it.

Mr. HYDE. In the frenzy of our conversation, we have overlooked a very important Member, Mr. Inglis; and I regret that, and we will certainly recognize you for 5 minutes.

Mr. INGLIS. Thank you, Mr. Chairman. I use these opportunities to testify myself, as you know, in these question times, but I will try to ask questions.

I would respond, though, that you know—in my case, I can tell you that it is possible to run the office and return 90 percent of the franking amount; that is, if you don't do any—

Mr. HYDE. God bless South Carolina.

Mr. INGLIS. In other words, that is a decision that I make because I have got a cut in—a proposal in that would eliminate 75 percent of the franking money. That means what you do is, you just don't frank, you don't do unsolicited mass mailings. If you do that, you can return about 90 percent of the money, which is how I am able to return about \$200,000 a year, but it comes out of that account.

But an interesting question—Ms. Cain may want to respond to this—Mr. Goodlatte made some excellent points. Let me just try to amplify them a little bit by saying, Mr. Hoke and I have something in common, we both defeated incumbents in 1992, which is sort of the worst argument for term limits.

His was embroiled in a great deal of controversy, mine was not; but the thing that is interesting to me, just adding a little bit of flesh to the skeleton that Mr. Goodlatte laid out there is that in 1992 I can tell you that I was not invited to a single plant tour as a challenger. I did have somebody in my law firm beg my way into one plant, but I wasn't invited; we had to manipulate an invitation. I went to one plant tour.

Now, I am astounded. I go to plant—all of them want me to come. And so I go and not only do I get to tour the plant, they generally want to bring the employees in and have a meeting, and so it turns into a town meeting. It is wonderful; it is a great opportunity for me to hear from them. But I realize, too, that there is a real political advantage to that.

So—Mr. Wertheimer has already spoken to this; Ms. Cain may want to speak to this—even if we do campaign finance reform, there are still tremendous benefits to incumbency. Because I am full-time at this, I get paid \$133,600 a year to do that, whereas as a challenger, I can tell you, I had to work at the law firm, go back, during the day try to take some time off—and the mayor from Raleigh may understand this—and then go back and practice law from midnight until 3 a.m. to try to get my billable hours in, nearly dying in the process, while my incumbent was out leisurely going—yes, Mr. Chairman, to butcher shop openings. But she was rather leisurely doing it, while I was practicing law from 12 a.m. to 3 a.m., trying to get those billable hours in so I wouldn't get thrown out of the law firm.

Anybody that wants to challenge me has the same situation unless they are independently wealthy.

Ms. Cain, would you like to respond to how, even if we have campaign finance reform, we still have tremendous advantages to the incumbent?

Ms. CAIN. Many of the things that we have been talking about today would not be solved by term limits; many of the problems of incumbency you still have. With the term limits facing you and the proposals facing you, you will still have incumbents. So in some ways the term limits situation would, instead of shortening your length of term, because now you have 2-year limits, it would lengthen the years of term, because now you would be able to serve 6 years or 12 years as an incumbent until your seat would become unchallenged, because you would have all those powers that you have just discussed and you would not have dealt with any of the problems.

The league believes that campaign finance reform is one solution to one problem. We also believe the way campaigns are run is another problem. There is a long list of things that need to be solved.

Term limits, in and of themselves, do none of those things that you have indicated—the concerns with incumbency, franking and so forth. In fact, in some ways, they extend the length of time because none of those problems will be dealt with. You would be guaranteed 12 years of service until there was an open seat.

Mr. HYDE. Some of us must leave, and I am sure you must leave, too, and I was just asking the gentleman if he would take over as chairman because Mr. Canady had to go and I have a 3 o'clock meeting. So unless there is a burning desire for further communication, let me thank you all.

It has been stimulating. It has been a seminar, not really a hearing, and it has been fun.

I would like to talk to Mr. Wertheimer at some future time about being more family friendly and including spouses in trips overseas and in frequent flyer miles, because the stress on the family is deadly here. And I think if we could bring wives in to see what the husband is doing and feel that they are sharing in it, it would be a great thing for everybody, and not whack Congressmen because their spouse goes with them to Tokyo or wherever they go.

So—but that is another subject for another time.

Mr. WERTHEIMER. I don't remember having done that, but I would be happy to talk to you. I would like to talk to you, in fact.

Mr. HYDE. Sure, very good. The meeting is adjourned and our deep thanks to all of you.

[Whereupon, at 3 p.m., the subcommittee adjourned.]

A P P E N D I X

STATEMENT OF HON. FRANK A. LOBIONDO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

I strongly support the Citizen Legislature Act.

Term limits represent the principle that being a member of the House of Representatives was never meant to be a career. Our system of government was created so that average citizens would have the power to make the decisions that impact them.

It is a system whose logic is unassailable; those who make the decisions that will affect individuals should be the same people who have to live with those decisions.

If our livelihood depended at least in part on our ability to deal with the governmental mandates and regulations, wouldn't we be more careful about which mandates and which regulations we impose on the private sector? Doesn't it make sense that those who have just been elected would best understand what problems and concerns those in private life are experiencing? Isn't this what our founding fathers intended when they established this body?

We have joined together in a bi-partisan fashion to pass the Congressional Accountability Act, which applies the laws of the land to members of Congress. To me, term limits is aimed at the same goal; bringing that real world experience into an institution that all too often has become removed from the people it represents. The best way to ensure that Congress does not lose touch with the real world is to ensure, through term limits, that we will have a constant flow of fresh faces and new ideas.

Furthermore, I do not believe that we can afford to quibble over which term limit bill we should enact. Personally, I favor a 12 year limit. In fact, I believe so strongly in term limits that I have pledged publicly not to serve beyond 12 years in the House of Representatives, should my constituents see fit to continue to re-elect me.

But whatever the time limit, six years, eight years or 12, our goal must be enactment of term limits. I encourage my colleagues to join me in accomplishing this goal.

Terms of Service

CONGRESSES IN WHICH REPRESENTATIVES HAVE SERVED, WITH BEGINNING OF PRESENT SERVICE

[* Elected to fill a vacancy; Republicans in roman (231); Democrats in italic (203); Independent in bold (1); total, 435]

Name	State	District	Congresses (inclusive)	Beginning of present service
<i>23 terms, not consecutive</i>				
Yates, Sidney R	IL	9	81st to 87th, 89th to 104th.	Jan. 3, 1965.
<i>21 terms, consecutive</i>				
Dingell, John D	MI	16	*84th to 104th	Dec. 13, 1955.
<i>18 terms, consecutive</i>				
Gonzalez, Henry B	TX	20	*87th to 104th	Nov. 4, 1961.
<i>17 terms, consecutive</i>				
Gibbons, Sam	FL	11	88th to 104th	Jan. 3, 1963.
McDade, Joseph M	PA	10	88th to 104th	Jan. 3, 1963.
Quillen, James H. (Jimmy)	TN	1	88th to 104th	Jan. 3, 1963.
<i>16 terms, consecutive</i>				
Conyers, John, Jr	MI	14	89th to 104th	Jan. 3, 1965.
de la Garza, E (Kika)	TX	15	89th to 104th	Jan. 3, 1965.
Hamilton, Lee H	IN	9	89th to 104th	Jan. 3, 1965.
<i>16 terms, not consecutive</i>				
Brown, George E., Jr	CA	42	88th to 91st, 93d to 104th.	Jan. 3, 1973.
<i>15 terms, consecutive</i>				
Bevill, Tom	AL	4	90th to 104th	Jan. 3, 1967.
Montgomery, G.V. (Sonny)	MS	3	90th to 104th	Jan. 3, 1967.
Myers, John T	IN	7	90th to 104th	Jan. 3, 1967.
<i>15 terms, not consecutive</i>				
Jacobs, Andrew, Jr	IN	10	89th to 92d, 94th to 104th.	Jan. 3, 1975.
<i>14 terms, consecutive</i>				
Clay, William (Bill)	MO	1	91st to 104th	Jan. 3, 1969.
Crane, Phillip M	IL	8	*91st to 104th	Nov. 25, 1969.
Obey, David R	WI	7	*91st to 104th	Apr. 1, 1969.
Stokes, Louis	OH	11	91st to 104th	Jan. 3, 1969.
<i>13 terms, consecutive</i>				
Archer, Bill	TX	7	92d to 104th	Jan. 3, 1971.
Dellums, Ronald V	CA	9	92d to 104th	Jan. 3, 1971.
Rangel, Charles B	NY	15	92d to 104th	Jan. 3, 1971.
Spence, Floyd	SC	2	92d to 104th	Jan. 3, 1971.
Young, C.W. Bill	FL	10	92d to 104th	Jan. 3, 1971.
<i>12 terms, consecutive</i>				
Collins, Cardiss	IL	7	*93d to 104th	June 5, 1973.
Gilman, Benjamin A	NY	20	93d to 104th	Jan. 3, 1973.
Moakley, John Joseph	MA	9	93d to 104th	Jan. 3, 1973.
Moorhead, Carlos J	CA	27	93d to 104th	Jan. 3, 1973.
Murtha, John P	PA	12	*93d to 104th	Feb. 5, 1974.
Regula, Ralph	OH	16	93d to 104th	Jan. 3, 1973.
Rose, Charlie	NC	7	93d to 104th	Jan. 3, 1973.

Congressional Directory

CONGRESSES IN WHICH REPRESENTATIVES HAVE SERVED, WITH BEGINNING OF PRESENT SERVICE—CONTINUED

[* Elected to fill a vacancy; Republicans in roman (R); Democrats in italic (D); Independent in bold (I); rest, (S)]

Name	State	District	Congresses (inclusive)	Beginning of present service
<i>Schroeder, Patricia</i>	CO	1	93d to 104th	Jan. 3, 1973.
Shuster, Bud	PA	9	93d to 104th	Jan. 3, 1973.
<i>Stark, Fortney Pete</i>	CA	13	93d to 104th	Jan. 3, 1973.
<i>Studds, Gerry E</i>	MA	10	93d to 104th	Jan. 3, 1973.
<i>Wilson, Charles</i>	TX	2	93d to 104th	Jan. 3, 1973.
Young, Don	AK	At L.	*93d to 104th	Mar. 6, 1973.
<i>11 terms, consecutive</i>				
<i>Ford, Harold E</i>	TN	9	94th to 104th	Jan. 3, 1975.
Goodling, William	PA	19	94th to 104th	Jan. 3, 1975.
<i>Hefner, W.G. (Bill)</i>	NC	8	94th to 104th	Jan. 3, 1975.
Hyde, Henry J	IL	6	94th to 104th	Jan. 3, 1975.
<i>LaFalce, John J</i>	NY	29	94th to 104th	Jan. 3, 1975.
<i>Markey, Edward J</i>	MA	7	*94th to 104th	Nov. 2, 1976.
<i>Miller, George</i>	CA	7	94th to 104th	Jan. 3, 1975.
<i>Mineta, Norman Y</i>	CA	15	94th to 104th	Jan. 3, 1975.
<i>Oberstar, James L</i>	MN	8	94th to 104th	Jan. 3, 1975.
<i>Waxman, Henry A</i>	CA	29	94th to 104th	Jan. 3, 1975.
<i>10 terms, consecutive</i>				
<i>Beilenson, Anthony C</i>	CA	24	95th to 104th	Jan. 3, 1977.
<i>Bonior, David E</i>	MI	10	95th to 104th	Jan. 3, 1977.
<i>Dicks, Norman D</i>	WA	6	95th to 104th	Jan. 3, 1977.
<i>Gephardt, Richard A</i>	MO	3	95th to 104th	Jan. 3, 1977.
<i>Kildee, Dale E</i>	MI	9	95th to 104th	Jan. 3, 1977.
<i>Leach, James A</i>	IA	1	95th to 104th	Jan. 3, 1977.
<i>Livingston, Bob</i>	LA	1	*95th to 104th	Aug. 27, 1977.
<i>Rahall, Nick Joe, II</i>	WV	3	95th to 104th	Jan. 3, 1977.
<i>Stelton, Ike</i>	MO	4	95th to 104th	Jan. 3, 1977.
<i>Stump, Bob</i>	AZ	3	95th to 104th	Jan. 3, 1977.
<i>Vento, Bruce F</i>	MN	4	95th to 104th	Jan. 3, 1977.
<i>Volkmer, Harold L</i>	MO	9	95th to 104th	Jan. 3, 1977.
<i>Walker, Robert S</i>	PA	16	95th to 104th	Jan. 3, 1977.
<i>10 terms, not consecutive</i>				
<i>Mink, Patsy</i>	HI	2	89th to 94th, *101st to 104th.	Sept. 22, 1990.
<i>9 terms, consecutive</i>				
<i>Bereuter, Doug</i>	NE	1	96th to 104th	Jan. 3, 1979.
<i>Clinger, William F., Jr</i>	PA	5	96th to 104th	Jan. 3, 1979.
<i>Dixon, Julian C</i>	CA	32	96th to 104th	Jan. 3, 1979.
<i>Fazio, Vic</i>	CA	3	96th to 104th	Jan. 3, 1979.
<i>Frost, Martin</i>	TX	24	96th to 104th	Jan. 3, 1979.
<i>Gingrich, Newt</i>	GA	6	96th to 104th	Jan. 3, 1979.
<i>Hall, Tony P</i>	OH	3	96th to 104th	Jan. 3, 1979.
<i>Lewis, Jerry</i>	CA	40	96th to 104th	Jan. 3, 1979.
<i>Matsui, Robert T</i>	CA	5	96th to 104th	Jan. 3, 1979.
<i>Petri, Thomas E</i>	WI	6	*96th to 104th	Apr. 3, 1979.
<i>Porter, John Edward</i>	IL	10	*96th to 104th	Jan. 22, 1980.
<i>Roth, Toby</i>	WI	8	96th to 104th	Jan. 3, 1979.
<i>Sabo, Martin Olav</i>	MN	5	96th to 104th	Jan. 3, 1979.

Terms of Service

CONGRESSES IN WHICH REPRESENTATIVES HAVE SERVED, WITH BEGINNING OF PRESENT SERVICE—CONTINUED

[* Elected to fill a vacancy; Republicans in roman (231); Democrats in italic (205); Independent in bold (1); total, 433]

Name	State	District	Congresses (inclusive)	Beginning of present service
Sensenbrenner, F. James, Jr.	WI	9	96th to 104th	Jan. 3, 1979.
Solomon, Gerald B.H.	NY	22	96th to 104th	Jan. 3, 1979.
Stenholm, Charles W.	TX	17	96th to 104th	Jan. 3, 1979.
Tauzin, W.J. (Billy)	LA	3	*96th to 104th	May 17, 1980.
Thomas, Bill	CA	21	96th to 104th	Jan. 3, 1979.
Williams, Pat	MT	At L.	96th to 104th	Jan. 3, 1979.
<i>9 terms, not consecutive</i>				
Dornan, Robert K.	CA	46	95th to 97th, 99th to 104th.	Jan. 3, 1985.
<i>8 terms, consecutive</i>				
Bliley, Thomas J., Jr.	VA	7	97th to 104th	Jan. 3, 1981.
Coyne, William J.	PA	14	97th to 104th	Jan. 3, 1981.
Dreier, David	CA	28	97th to 104th	Jan. 3, 1981.
Emerson, Bill	MO	8	97th to 104th	Jan. 3, 1981.
Fields, Jack	TX	8	97th to 104th	Jan. 3, 1981.
Foglietta, Thomas M.	PA	1	97th to 104th	Jan. 3, 1981.
Frank, Barney	MA	4	97th to 104th	Jan. 3, 1981.
Gejdenson, Sam	CT	2	97th to 104th	Jan. 3, 1981.
Gunderson, Steve	WI	3	97th to 104th	Jan. 3, 1981.
Hall, Ralph M.	TX	4	97th to 104th	Jan. 3, 1981.
Hansen, James V.	UT	1	97th to 104th	Jan. 3, 1981.
Hoyer, Steny H.	MD	5	*97th to 104th	May 19, 1981.
Hunter, Duncan	CA	52	97th to 104th	Jan. 3, 1981.
Kennelly, Barbara B.	CT	1	*97th to 104th	Jan. 12, 1982.
Lantos, Tom	CA	12	97th to 104th	Jan. 3, 1981.
Martinez, Matthew G.	CA	31	*97th to 104th	July 13, 1982.
McCollum, Bill	FL	8	97th to 104th	Jan. 3, 1981.
Oxley, Michael G.	OH	4	*97th to 104th	June 25, 1981.
Roberts, Pat	KS	1	97th to 104th	Jan. 3, 1981.
Rogers, Harold	KY	5	97th to 104th	Jan. 3, 1981.
Roukema, Marge	NJ	5	97th to 104th	Jan. 3, 1981.
Schumer, Charles E.	NY	9	97th to 104th	Jan. 3, 1981.
Shaw, E. Clay, Jr.	FL	22	97th to 104th	Jan. 3, 1981.
Skeen, Joe	NM	2	97th to 104th	Jan. 3, 1981.
Smith, Christopher H.	NJ	4	97th to 104th	Jan. 3, 1981.
Wolf, Frank R.	VA	10	97th to 104th	Jan. 3, 1981.
Wyden, Ron	OR	3	97th to 104th	Jan. 3, 1981.
<i>7 terms, consecutive</i>				
Ackerman, Gary L.	NY	5	*98th to 104th	Mar. 1, 1983.
Bateman, Herbert H.	VA	1	98th to 104th	Jan. 3, 1983.
Berman, Howard L.	CA	26	98th to 104th	Jan. 3, 1983.
Bilirakis, Michael	FL	9	98th to 104th	Jan. 3, 1983.
Boehlert, Sherwood L.	NY	23	98th to 104th	Jan. 3, 1983.
Borski, Robert A.	PA	3	98th to 104th	Jan. 3, 1983.
Boucher, Rick	VA	9	98th to 104th	Jan. 3, 1983.
Bryant, John	TX	5	98th to 104th	Jan. 3, 1983.
Burton, Dan	IN	6	98th to 104th	Jan. 3, 1983.
Coleman, Ronald D.	TX	16	98th to 104th	Jan. 3, 1983.
Durbin, Richard J.	IL	20	98th to 104th	Jan. 3, 1983.

Congressional Directory

CONGRESSES IN WHICH REPRESENTATIVES HAVE SERVED, WITH BEGINNING OF PRESENT SERVICE—CONTINUED

[* Elected to fill a vacancy: Republicans in roman (231); Democrats in *italic* (203); Independent in bold (1); total, 435]

Name	State	District	Congresses (inclusive)	Beginning of present service
<i>Evans, Lane</i>	IL	17	98th to 104th	Jan. 3, 1983.
Gekas, George W	PA	17	98th to 104th	Jan. 3, 1983.
Johnson, Nancy L	CT	6	98th to 104th	Jan. 3, 1983.
<i>Kaptur, Marcy</i>	OH	9	98th to 104th	Jan. 3, 1983.
Kasich, John R	OH	12	98th to 104th	Jan. 3, 1983.
<i>Klecza, Gerald D</i>	WI	4	*98th to 104th	Apr. 3, 1984.
<i>Levin, Sander M</i>	MI	12	98th to 104th	Jan. 3, 1983.
<i>Lipinski, William O</i>	IL	3	98th to 104th	Jan. 3, 1983.
<i>Mollohan, Alan B</i>	WV	1	98th to 104th	Jan. 3, 1983.
<i>Ortiz, Solomon P</i>	TX	27	98th to 104th	Jan. 3, 1983.
<i>Owens, Major R</i>	NY	11	98th to 104th	Jan. 3, 1983.
<i>Packard, Ron</i>	CA	48	98th to 104th	Jan. 3, 1983.
<i>Richardson, Bill</i>	NM	3	98th to 104th	Jan. 3, 1983.
<i>Saxton, Jim</i>	NJ	3	*98th to 104th	Nov. 6, 1984.
<i>Schaefer, Dan</i>	CO	6	*98th to 104th	Mar. 29, 1983.
<i>Sisisky, Norman</i>	VA	4	98th to 104th	Jan. 3, 1983.
<i>Spratt, John M., Jr</i>	SC	5	98th to 104th	Jan. 3, 1983.
<i>Torres, Esteban Edward</i> ..	CA	34	98th to 104th	Jan. 3, 1983.
<i>Torricelli, Robert G</i>	NJ	9	98th to 104th	Jan. 3, 1983.
<i>Towns, Edolphus</i>	NY	10	98th to 104th	Jan. 3, 1983.
<i>Vucanovich, Barbara F</i>	NV	2	98th to 104th	Jan. 3, 1983.
<i>Wise, Robert E., Jr</i>	WV	2	98th to 104th	Jan. 3, 1983.

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